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7 Attorney for Defendant  
GERALD ARMSTRONG  
8

ORIGINAL FILED  
SEP 07 1993  
LOS ANGELES  
SUPERIOR COURT

RECEIVED  
SEP 09 1993  
HUB LAW OFFICES

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 IN AND FOR THE COUNTY OF LOS ANGELES  
12

13	CHURCH OF SCIENTOLOGY	)	No. BC 052395
14	INTERNATIONAL, a California	)	
15	not-for-profit religious	)	DECLARATION OF FORD GREENE
15	corporation;	)	IN OPPOSITION TO ORDER TO
16		)	SHOW CAUSE RE CONTEMPT;
16	Plaintiffs,	)	<u>REQUEST FOR MONETARY SANCTIONS</u>
17	vs.	)	
18	GERALD ARMSTRONG; DOES 1	)	Date: September 14, 19932
18	through 25, inclusive,	)	Time: 9:30 a.m.
19		)	Dept: 86
20	Defendants.	)	Trial Date: Stayed
20		)	Discovery Cut Off: Stayed
21		)	Motion Cut Off: Stayed

22 FORD GREENE declares:

23 1. I am an attorney licensed to practice law in the Courts  
24 of the State of California and am the attorney of record for  
25 Gerald Armstrong, defendant herein.

26 2. Attached hereto and incorporated herein by reference as  
27 though fully set forth is Exhibit A, a true and correct copy of a  
28

**COPY**



1 letter dated July 23, 1993, from Laurie J. Bartilson to Ford  
2 Greene.

3 3. Attached hereto and incorporated herein by reference as  
4 though fully set forth is Exhibit B, a true and correct copy of  
5 the preliminary injunction issued in this case by the Honorable M.  
6 Sohigian on May 28, 1992.

7 4. Attached hereto and incorporated herein by reference as  
8 though fully set forth is Exhibit C, a true and correct copy of  
9 the Complaint to Set Aside Judgment and for Equitable Relief in  
10 Church of Scientology of California v. Larry Wollersheim, LASC No.  
11 BC 074815 ("Wollersheim II").

12 5. Attached hereto and incorporated herein by reference as  
13 though fully set forth is Exhibit D, a true and correct copy  
14 of the Amended Memorandum of Points and Authorities in Support of  
15 Defendant's Special Motion to Strike filed June 21, 1993, in  
16 Wollersheim II.

17 6. Attached hereto and incorporated herein by reference as  
18 though fully set forth is Exhibit E, a true and correct copy  
19 of Declaration of Gerald Armstrong dated June 4, 1993, filed as  
20 Exhibit 6 in support of the Amended Memorandum of Points and  
21 Authorities in Support of Defendant's Special Motion to Strike  
22 filed June 21, 1993, in Wollersheim II.

23 7. Attached hereto and incorporated herein by reference as  
24 though fully set forth is Exhibit F, a true and correct copy of  
25 the Declaration of the Honorable James M. Ideman, executed June  
26 17, 1993 in Religious Technology Center, Petitioner v. US  
27 District Court, Respondent, David Mayo, Real Part in Interest, No.  
28 93-70281 in the 9th Cir. Ct. of Appeals.



1           8. Attached hereto and incorporated herein by reference as  
2 though fully set forth is Exhibit G, a true and correct copy of  
3 a letter dated July 23, 1993, from Ford Greene to Laurie J.  
4 Bartilson.

5           9. Attached hereto and incorporated herein by reference as  
6 though fully set forth is Exhibit H, a true and correct copy of a  
7 letter dated July 23, 1993, from Gerald Armstrong on behalf of  
8 Ford Greene to Laurie J. Bartilson.

9           10. Attached hereto and incorporated herein by reference as  
10 though fully set forth is Exhibit I, a true and correct copy of a  
11 letter dated July 23, 1993, from Laurie J. Bartilson to Ford  
12 Greene.

13           11. Attached hereto and incorporated herein by reference as  
14 though fully set forth is Exhibit J, a true and correct copy of a  
15 letter dated July 30, 1993, from Ford Greene to Laurie J.  
16 Bartilson.

17           12. On Sunday, July 25, 1993, I served by fax a copy of  
18 Defendant Armstrong's Memorandum In Opposition To Application For  
19 An Order To Show Cause Re Contempt; Request For Monetary Sanctions  
20 to Laurie J. Bartilson, counsel for plaintiff.

21           13. I have never received any response to my letter  
22 identified above as Exhibit J.

23           14. Attached hereto and incorporated herein by reference as  
24 though fully set forth is Exhibit K, a true and correct copy of an  
25 excerpt of Respondent's Brief, filed April 20, 1993, in Case No. B  
26 069450 in the Second District Court of Appeal, in Armstrong's  
27 appeal of the Sohigian injunction herein.

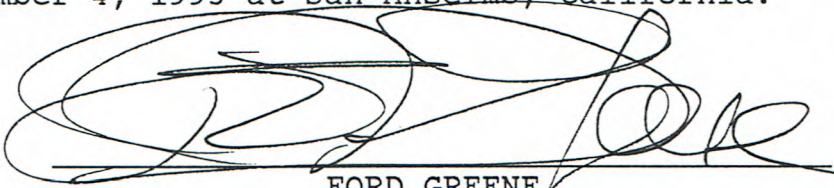
28           15. In cult-related litigation, such as that at bar, I bill



1 my time at the rate of \$200.00 per hour. It has taken me six  
2 hours to draft the memorandum and declaration that are to be  
3 submitted in opposition to Scientology's Application for an Order  
4 to Show Cause Why Gerald Armstrong Should Not Be Held In Contempt.  
5 In order for this opposition to be presented to the Court, I will be  
6 required to spend four hours traveling to and from my office in  
7 Marin County to Los Angeles. I anticipate that three hours of  
8 trial time will be expended litigating the order to show cause. I  
9 value the time of my paralegal at \$55.00 per hour. Four paralegal  
10 hours were expended on pulling, copying and assembling documents.  
11 854 copies were made at the cost of \$.25 per copy and 29 fax  
12 sheets at \$2.00 per sheet. Therefore, the total fees and costs  
13 incurred in opposing the application are \$3,081.50.

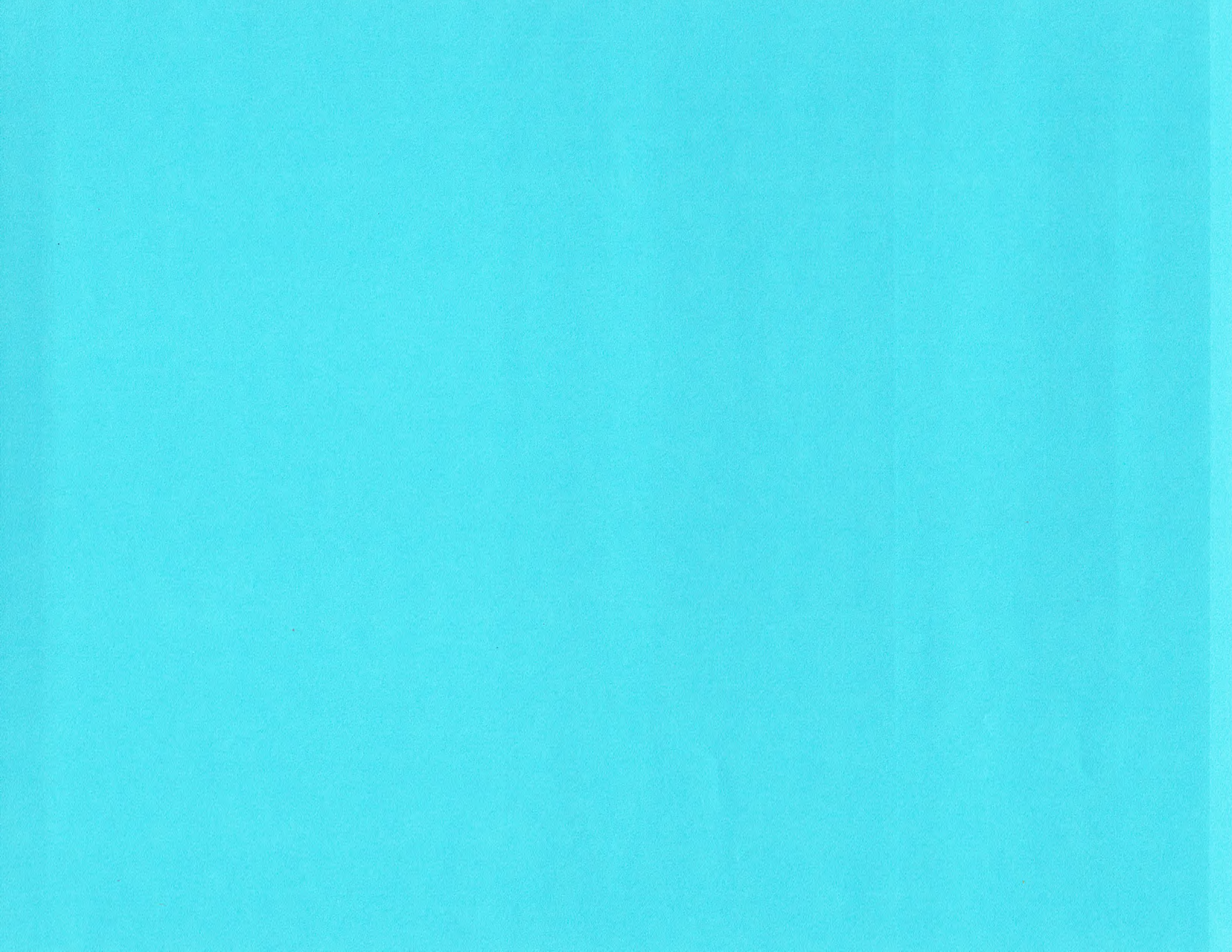
14 Under penalty of perjury pursuant to the laws of the State of  
15 California I hereby declare that the foregoing is true and correct  
16 according to my first-hand knowledge, except those matters stated  
17 to be on information and belief, and as to those matters, I  
18 believe them to be true.

19 Executed on September 4, 1993 at San Anselmo, California.

20   
21  
22 FORD GREENE

23  
24  
25  
26  
27  
28







**BOWLES & MOXON**  
ATTORNEYS AT LAW  
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PETER M. JACOBS  
RANDALL A. SPENCER §  
ROBERT A. WIENER #  
LESLIE T.W. SOASH  
AVA MARIE SANDLIN

RECEIVED

JUL 26 1993

KUB LAW OFFICES

OF COUNSEL  
JEANNE M. GAVIGAN  
MARCELLO M. DI MAURO  
KAREN L. BROWN  
KAREN D. HOLLY

July 23, 1993

BY TELEFAX AND U.S. MAIL

Ford Greene  
711 Sir Francis Drake Blvd.  
San Anselmo, California 94960-1949

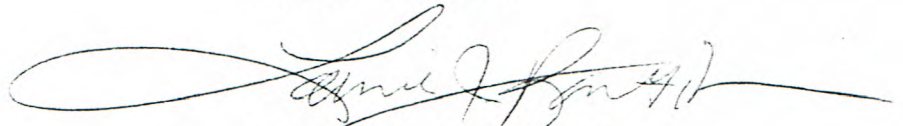
Re: Church of Scientology International v. Gerald Armstrong

Dear Mr. Greene:

Please take notice that on Monday, July 26, 1993, at 8:30 a.m., plaintiff Church of Scientology International will appear in Department 86 of the Los Angeles Superior Court, and request that an order issue, pursuant to Code of Civil Procedure Section 1212, directing Gerald Armstrong to show cause why he should not be held in contempt of court and sanctioned. Plaintiff intends to base its request on the declaration, dated June 4, 1993, which Armstrong provided to Larry Wollersheim and his attorneys in direct contravention of the injunction issued in this case by Judge Sohigian on May 28, 1992.

Sincerely,

BOWLES & MOXON



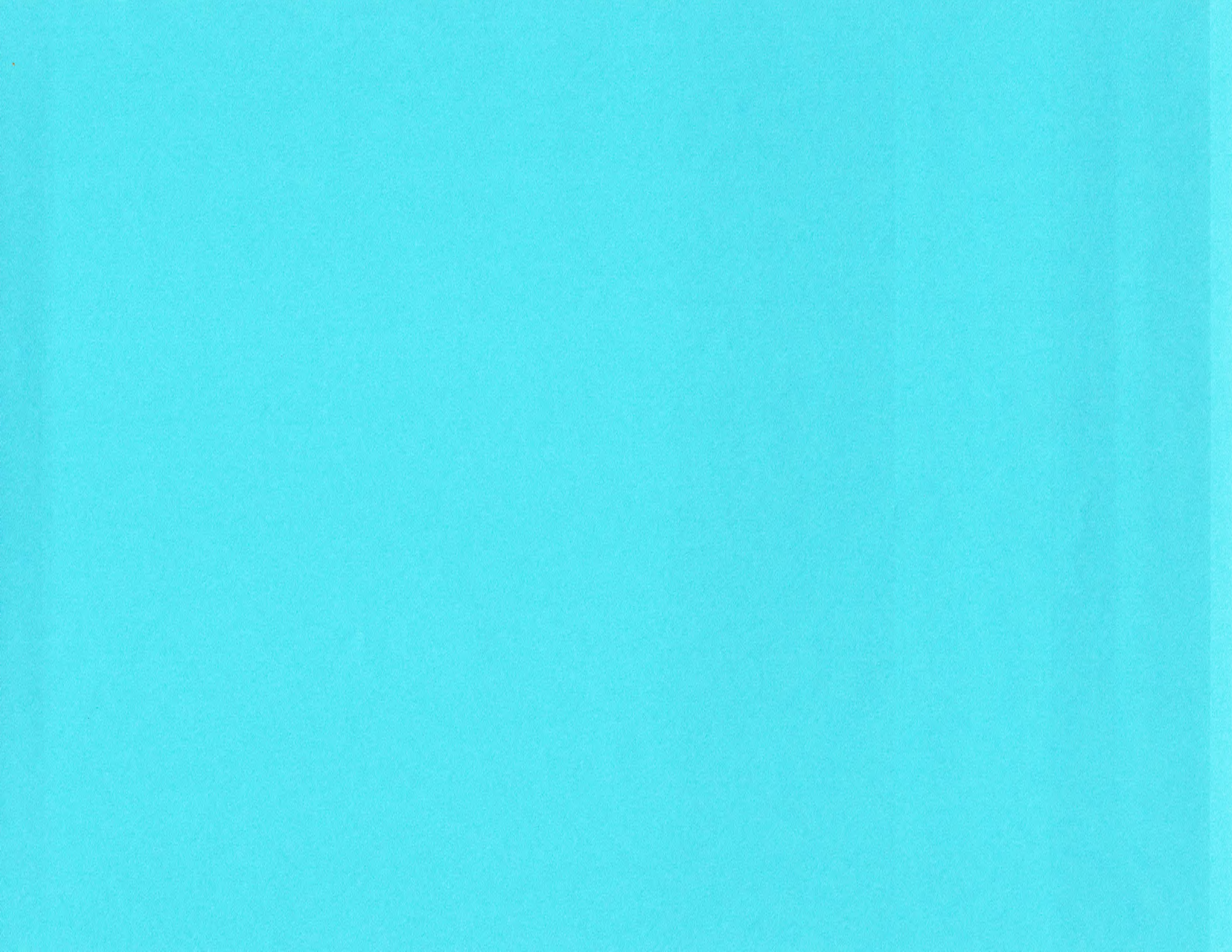
Laurie J. Bartilson

LJB:mfh

Enc.

cc: Paul Morantz BY TELEFAX AND U.S. MAIL  
cc: Andrew H. Wilson BY TELEFAX AND U.S. MAIL







SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: May 28, 1992  
Honorable Ronald M. Sohigian, Judge  
1

M. Cervantes, Deputy Clerk  
None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International  
vs.

Counsel For  
Plaintiff

Gerald Armstrong, et al.

Counsel For  
Defendant

No Appearances

**NATURE OF PROCEEDINGS:** RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

In this matter heretofore taken under submission on May 27, 1992, the court now makes the following ruling.

1 Plaintiff's legal remedies are inadequate insofar as the scope of relief ordered below is concerned, but not otherwise. CCP 526(4) and (5).

2 -- The threatened acts which are restrained by the order referred to below, but only those threatened acts, would do irreparable harm to plaintiff which could not be compensated by monetary damages. CCP 526(2).

3 On the basis of the instant record, there is a reasonable probability that plaintiff will prevail after trial of this case in the respects restrained by this order. CCP 526(1); cf., San Francisco Newspaper Printing Co., Inc. vs. Superior Court (Miller) (1985) 170 Cal. App. 3d 438.

4 Plaintiff is likely to suffer greater injury from denial of the preliminary injunction the terms of which are set out below than the injury which defendant is likely to suffer if it is granted. See Robbins vs. Superior Court (County of Sacramento) (1985) 38 Cal. 3d 199, 206.

5 The granting of a preliminary injunction in the terms set out below will preserve the status quo pending trial.



## SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: May 28, 1992  
 Honorable Ronald M. Sohigian, Judge  
 1a

M. Cervantes, Deputy Clerk  
 None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International

Counsel For  
Plaintiff

vs.

Gerald Armstrong, et al.

Counsel For  
Defendant

No Appearances

NATURE OF PROCEEDINGS: RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

6 Application for preliminary injunction is granted in part, in the following respects only.

Defendant Gerald Armstrong, his agents, and persons acting in concert or conspiracy with him (excluding attorneys at law who are not said defendant's agents or retained by him) are restrained and enjoined during the pendency of this suit pending further order of court from doing directly or indirectly any of the following:

Voluntarily assisting any person (not a governmental organ or entity) intending to make, intending to press, intending to arbitrate, or intending to litigate a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986 regarding such claim or regarding pressing, arbitrating, or litigating it.

Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986.

The court does not intend by the foregoing to prohibit defendant Armstrong from: (a) being reasonably available for the service of subpoenas on him; (b) accepting service of subpoenas on him without physical resistance, obstructive tactics, or flight; (c) testifying fully and fairly in response to properly put questions either in deposition, at trial, or in other legal or arbitration proceedings; (d) properly reporting or disclosing to authorities criminal conduct of the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986; or (e) engaging in gainful employment rendering clerical or paralegal services not contrary to the terms and conditions of this order.



SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: May 28, 1992  
Honorable Ronald M. Schigian, Judge  
1b

M. Cervantes, Deputy Clerk  
None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International  
vs.

Counsel For  
Plaintiff

Gerald Armstrong, et al.

Counsel For  
Defendant

No Appearances

NATURE OF PROCEEDINGS: RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

The application for preliminary injunction is otherwise denied.

7 The restraints referred to in sec. 6, above, will become effective upon plaintiff's posting an undertaking in the sum of \$70,000 pursuant to CCP 529(a) by 12:00 noon on June 5, 1992.

8 The restraints referred to in sec. 6, above, properly balance and accommodate the policies inherent in: (a) the protectable interests of the parties to this suit; (b) the protectable interests of the public at large; (c) the goal of attaining full and impartial justice through legitimate and properly informed civil and criminal judicial proceedings and arbitrations; (d) the gravity of interest involved in what the record demonstrates defendant might communicate in derogation of the contractual language; and (e) the reasonable interpretation of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986. The fair interpretation of all the cases cited by the parties indicates that this is the correct decisional process. The law appropriately favors settlement agreements. Obviously, one limitation on freedom of contract is "public policy"; in determining what the scope of the public policy limitation on the parties' rights to enforcement of their agreement in the specific factual context of this case, the court has weighed the factors referred to in the first sentence of this section. Litigants have a substantial range of contractual freedom, even to the extent of agreeing not to assert or exercise rights which they might otherwise have. The instant record shows that plaintiff was substantially compensated as an aspect of the agreement, and does not persuasively support defendant's claim of duress or that the issues involved in this preliminary injunction proceeding were precluded by any prior decision.



SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: May 28, 1992  
Honorable Ronald M. Schigian, Judge  
1c

M. Cervantes, Deputy Clerk  
None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International  
vs.

Counsel For  
Plaintiff

Gerald Armstrong, et al.

Counsel For  
Defendant

No Appearances

NATURE OF PROCEEDINGS: RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

9 The court does not dispositively decide the underlying merits of the case except for this preliminary determination. CCP 526(1); Baypoint Mortgage Corp. vs. Crest Premium Real Estate etc. Trust (1985) 168 Cal. App. 3d 818, 823.

10 Plaintiff is ordered give written notice by mail by June 5, 1992, including in that written notice a statement regarding whether plaintiff has or has not posted the undertaking referred to in sec. 7, above, and attaching to that written notice evidence showing that the undertaking has been posted if that is the fact.

DATED: May 28, 1992.

RONALD M. SOHIGIAN  
\_\_\_\_\_  
RONALD M. SOHIGIAN  
Judge of the Superior Court

A copy of this minute order is sent to counsel via United States mail this date.







1 Kendrick L. Moxon  
2 BOWLES & MOXON  
3 6255 Sunset Blvd.  
4 Suite 2000  
5 Hollywood, CA 90028-7421  
6 (213) 661-4030

7 Attorneys for Plaintiff  
8 CHURCH OF SCIENTOLOGY OF CALIFORNIA

J. KAKITA?

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF LOS ANGELES

FILED 2/16/93

11 CHURCH OF SCIENTOLOGY OF  
12 CALIFORNIA, a California non-  
13 profit religious corporation,

14 Plaintiff,

15 vs.

16 LARRY WOLLERSHEIM,

17 Defendant.

) CASE NO. BC 074875

) COMPLAINT TO SET ASIDE  
) JUDGMENT AND FOR EQUITABLE  
) RELIEF

18 Plaintiff Church of Scientology of California ("the Church")  
19 alleges as follows:

20 GENERAL ALLEGATIONS

21 1. This is an action for equitable relief from a judgment  
22 rendered in this Court on July 22, 1986, in an action entitled  
23 Larry Wollersheim v. Church of Scientology of California, Case  
24 No. C 332 027 (the "Prior Action"). A true and correct copy of  
25 that judgment is annexed as Exhibit A. The Prior Action resulted  
26 in the entry of a judgment against the Church for, inter alia,  
27 punitive damages which exceeded the Church's proven net worth by  
28 more than \$14,000,000. Evidence newly discovered, as set forth  
in detail in paragraphs 9 - 20, infra, reveals that the verdict



1 was the result of passion and prejudice not merely of the jury,  
2 but of the sitting judge; that the judge was biased against the  
3 Church during the trial of the Prior Action because of beliefs  
4 that had no basis in fact, and came solely from extrajudicial  
5 sources; that the judge's prejudice became the source of the  
6 jurors' prejudice and bias; and that those prejudices were  
7 deliberately concealed from the Church and its counsel both  
8 during the trial proceedings and during post-trial proceedings in  
9 which the Church's attempts to inquire into the bias of judge and  
10 jury were uniformly thwarted. Because the trial court, due to  
11 his bias and prejudice, lacked jurisdiction over the trial of the  
12 Prior Action, the Church seeks equitable relief from the unjust  
13 judgment.

14 2. The Church is, and at all times herein mentioned was, a  
15 not for profit religious corporation organized and existing under  
16 the laws of the State of California with its principal offices at  
17 1404 North Catalina, Los Angeles, California 90027.

18 3. Defendant Larry Wollersheim is an individual whose  
19 current residence is not known to the Church, but whose current  
20 mail drop, upon information and belief, is P.O. Box 10910, Aspen,  
21 Colorado 81612.

22 4. Jurisdiction and venue are proper in this Court because  
23 this is an action for equitable relief from a judgment entered in  
24 the Prior Action. That judgment was modified by the California  
25 Court of Appeal in an opinion reported at 212 Cal.App.3d 872, 260  
26 Cal.Rptr. 331 (1989). The Court of Appeal's opinion was then  
27 vacated by the United States Supreme Court in a proceeding  
28 reported at 111 S.Ct. 1298 (1991). Judgment was again entered by



1 the California Court of Appeal on March 20, 1992, [Exhibit B] and  
2 modified by that Court on April 20, 1992 [Exhibit C]. On July  
3 23, 1992, the California Supreme Court granted the Church's  
4 petition for review. The case is being held pending decision by  
5 the Supreme Court of the United States in TXO Production Corp. v.  
6 Alliance Resources Corp., et al., No. 92-479 and pending a  
7 determination by the Supreme Court of California in Gourley v.  
8 State Farm Mutual Automobile Ins. Co. (SO14133) and MGW, Inc. v.  
9 Fredericks Development Corp. et al. (SO15966).

10 FIRST CAUSE OF ACTION

11 FOR EQUITABLE RELIEF FROM JUDGMENT

12 (Against Defendant Wollersheim)

13 5. This action seeks an order from the Court declaring the  
14 judgment in the Prior Action null and void in its entirety. The  
15 judgment rendered in the Prior Action was, and at all times has  
16 been, and now is void because the trial court lacked jurisdiction  
17 to render judgment in the Prior Action.

18 6. The Church is informed and believes that the judge in  
19 the Prior Action, the Honorable Ronald Swearinger, was  
20 disqualified under California case law and applicable provisions  
21 of the California Code of Civil Procedure, including C.C.P. §§  
22 170.1 and 170.6. Newly-discovered evidence, as hereinafter  
23 alleged, discloses that the judge entertained -- but failed to  
24 disclose that he entertained -- unfavorable beliefs and a biased  
25 condition of mind toward the Church during the trial of the Prior  
26 Action. The unfavorable beliefs had no basis in fact or  
27 evidence, nor did they derive from anything other than  
28 extrajudicial sources. Because of these unfounded beliefs and



1 bias, Judge Swearinger was disqualified throughout the pendency  
2 of the Prior Action, and lacked jurisdiction to preside over the  
3 trial, or to enter judgment.

4 7. During post-trial proceedings following the Prior  
5 Action, interviews with jurors conducted by the Church's  
6 attorneys revealed that the jurors "believed" that they were  
7 being followed by members of the Church of Scientology. One of  
8 the jurors, Terri Reuter, stated that the jury had been told by  
9 "unnamed court personnel," whom she refused to identify, that  
10 during the trial Judge Swearinger's tires had been slashed, and  
11 that his dog had been found dead. She said that the jurors  
12 attributed these actions to unknown and unnamed members of the  
13 Church of Scientology. None of the jurors, however, would  
14 volunteer further information about these events. No members of  
15 any Church of Scientology had, in fact, followed the jurors,  
16 slashed any tires, or done anything at all to Judge Swearinger's  
17 dog. The Church was aware, however, that Wollersheim's counsel,  
18 Charles O'Reilly, had hired multiple private investigators during  
19 the course of the Prior Action, and Church counsel suspected that  
20 one or more of these investigators were responsible for "dirty  
21 tricks" designed to implicate the Church, and prejudice the jury.

22 8. After the juror interviews, Church attorneys sought to  
23 investigate the bias that obviously pervaded the jury and  
24 infected its verdict, seeking the source of these unfounded  
25 accusations, which had never been made in the open courtroom  
26 during the trial itself. Church counsel raised with the Court  
27 the jury bias which had been learned of in post-trial interviews,  
28 including the statements made by Reuter, and made a request to



1 Judge Swearinger to be allowed discovery into the jurors in order  
2 to establish the extent and source of the taint. Wollersheim's  
3 counsel vigorously opposed such an investigation and Judge  
4 Swearinger refused to allow the discovery. The source of the  
5 jury's bias thus remained a mystery for five years.

6 9. Finally, in an interview with William W. Horne, a  
7 reporter employed by the American Lawyer magazine which took  
8 place in 1992, Judge Swearinger revealed that he maintained a  
9 condition of mind of unfavorable bias against the Church during  
10 the trial of the Prior Action. According to Horne, Judge  
11 Swearinger stated that his dog had drowned in the family swimming  
12 pool during the trial of the Prior Action, and that the judge  
13 believed that he had been followed when in his car throughout the  
14 trial. The judge informed Horne that, while he was in possession  
15 of no evidence to corroborate the suspicions he harbored, he  
16 nonetheless felt that members of the Church of Scientology were  
17 responsible for such actions.

18 10. The judge's "suspicions" had no basis in fact. No  
19 member of any Church of Scientology did anything to harass or  
20 follow Judge Swearinger during the Prior Action, nor did any  
21 member of any Church of Scientology have anything to do with the  
22 death of Judge Swearinger's dog.

23 11. During an interview with the Church's attorneys Eric M.  
24 Lieberman and Jonathan Lubell on March 19, 1992, Horne revealed  
25 Judge Swearinger's statements as set forth in paragraph 9, supra.  
26 For the first time, the Church and its attorneys suspected that  
27 the source of infection of the jury was the judge himself.

28 12. Horne provided further details concerning Judge



1 Swearinger's statements in an interview with the Church's  
2 attorney, Michael L. Hertzberg, in New York City on March 23,  
3 1992. Horne stated that Judge Swearinger related to Horne that  
4 the judge's veterinarian had told the judge that the dog was old  
5 and had died of a heart attack, yet Judge Swearinger still felt  
6 that the dog had fallen or been pushed into the pool. Horne  
7 further stated that the judge had said that he felt the Church  
8 somehow had responsibility for the dog's death.

9 13. Horne also told Hertzberg that Judge Swearinger claimed  
10 he had been followed "a few times" in his car during the trial of  
11 the Prior Action and had assumed that the Church of Scientology  
12 was responsible for these actions.

13 14. In the July/August 1992 issue of American Lawyer,  
14 Horne published an article which quotes Judge Swearinger as  
15 saying:

16 "I was followed [at various times] throughout the trial  
17 . . . and during motions for a new trial . . . . All  
18 kinds of things were done to intimidate me, and there  
19 were a number of unusual occurrences during that trial.  
20 My car tires were slashed. My collie drowned in my  
21 pool. But there was nothing overtly threatening, and I  
22 didn't pay any attention to the funny stuff."

23 15. During the pendency of the Prior Action, Judge  
24 Swearinger never mentioned these incidents to counsel for the  
25 Church nor revealed (to them) his concern or belief that Church  
26 personnel were responsible for acts of harassment against him.  
27 By withholding any mention of his concern, Judge Swearinger  
28 denied the Church the opportunity to remove his concerns or to



1 challenge him for cause.

2 16. The Church is informed, and therefore believes, that  
3 although Judge Swearinger did not divulge his state of mind to  
4 Church counsel, he did describe these incidents to court  
5 personnel during the trial of the Prior Action, and that court  
6 personnel, in turn, revealed them to the jurors, resulting in a  
7 jury as biased as the judge.

8 17. In April, 1992, during a chambers conference in a case  
9 unrelated to the Prior Action and to which neither Wollersheim  
10 nor the Church was a party, Judge Swearinger discussed the trial  
11 of the Prior Action with counsel in that case, one of whom was  
12 counsel for Wollersheim in the most recent Court of Appeal  
13 proceeding in the Prior Action. The Church is informed, and  
14 therefore believes, that Judge Swearinger stated to Wollersheim's  
15 appellate lawyer that he believed the award of damages in the  
16 Prior Action was excessive but that he had deliberately chosen to  
17 allow the excessive verdict to stand because of his displeasure  
18 with the Church and its trial counsel.

19 18. During the chambers conference, Judge Swearinger asked  
20 Wollersheim's appellate counsel to see if he could arrange with  
21 the Church's counsel for a certain official of the Church of  
22 Scientology to call Judge Swearinger. The judge also showed bias  
23 against the Church and its counsel through derogatory references  
24 to the Church's counsel. The judge referred to the Church's  
25 counsel, Earl Cooley, as Earl "Fooley," because Mr. Cooley had  
26 alleged that there had been tampering with the jury.

27 19. Wollersheim's appellate counsel relayed Judge  
28 Swearinger's remarks to one of the Church's counsel who, after



1 client consultation, called Judge Swearinger on behalf of the  
2 Church of Scientology official with whom Judge Swearinger had  
3 asked to speak. In that telephone conversation with Church  
4 counsel, Judge Swearinger repeated the substance of his discourse  
5 with Wollersheim's appellate counsel concerning his state of mind  
6 with respect to the jury verdict in the Prior Action. The judge  
7 stated that at the time of the post-trial motion he probably  
8 would have done what the Court of Appeal eventually did -- i.e.,  
9 reduce the jury's damage award by 27.5 million dollars. He  
10 explained, however, that he did not do so because such an action  
11 would have given credibility to Mr. "Fooley's" charge that the  
12 jury was tainted. Now, five years later, it has finally been  
13 revealed that not only was Mr. Cooley correct about the jury  
14 taint, but that it was Judge Swearinger, himself, who was the  
15 source of the jury's taint and corruption.

16 20. Judge Swearinger's comments, made long after the trial  
17 of the Prior Action, revealed that he possessed, throughout the  
18 Prior Action, unfounded suspicions and unfavorable beliefs  
19 regarding the Church, none of which were disclosed during the  
20 pendency of the Prior Action. Moreover, those comments make  
21 clear that the judge improperly permitted entry of a judgment he  
22 knew to be outrageous, and the result of bias and prejudice, in  
23 order to conceal that he, himself, was the source of the jury's  
24 bias and prejudice.

25 21. Judge Swearinger's concealment, during the Prior  
26 Action, of his suspicions, bias and prejudice denied the Church  
27 any opportunity to address and alleviate Judge Swearinger's  
28 concerns, or to challenge him for cause, thus resulting in an



1 unfair trial and an unjust verdict. Further, Judge Swearinger's  
2 refusal during the post-trial stages of the Prior Action to  
3 permit discovery into the source of the jurors' bias and  
4 prejudice prevented the Church from discovering, other than by  
5 chance, that the judge was also the source of jury bias and  
6 taint.

7 22. The Church was recently apprised of all of the  
8 foregoing information regarding Judge Swearinger's state of mind  
9 during the Prior Action. Prior to this time such information was  
10 not available to the Church despite the Church's diligence. The  
11 Church is free from contributory fault in the entry of the  
12 previous judgment.

13 23. The Church will suffer irreparable harm and irreplace-  
14 able loss if the final judgment entered in the Prior Action is  
15 permitted to stand, and the Church has no adequate remedy at law.

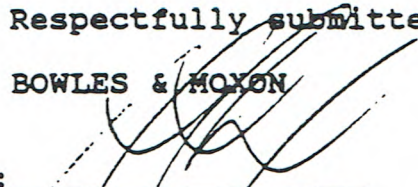
16 WHEREFORE, the Church prays for judgment as follows:

17 1. That the judgment rendered against the Church in the  
18 Prior Action be declared null and void and of no further effect;  
19 and

20 2. For such other and further relief as the Court may deem  
21 just and proper.

22 DATED: February 16, 1993

Respectfully submitted,  
BOWLES & MOXON

By:   
Kendrick L. Moxon

Attorneys for Plaintiff  
CHURCH OF SCIENTOLOGY OF  
CALIFORNIA

28

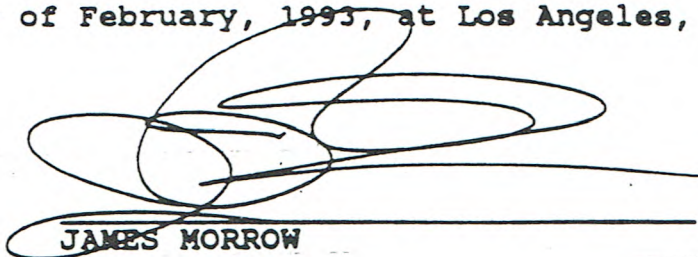


VERIFICATION

1  
2  
3 I, James Morrow, am the President of the Church of  
4 Scientology California, the plaintiff in this action. I have  
5 read the foregoing complaint and know the contents thereof. The  
6 same is true of my own knowledge, except as to those matters  
7 which are therein alleged on information and belief, and as to  
8 those matters, I believe them to be true.

9 I declare under penalty of perjury that the foregoing is  
10 true and correct.

11 Executed this 16th day of February, 1993, at Los Angeles,  
12 California.

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JAMES MORROW







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11 In Pro Per

12

13

14

SUPERIOR COURT OF THE STATE OF CALIFORNIA

15

COUNTY OF LOS ANGELES

16

17 CHURCH OF SCIENTOLOGY OF )  
CALIFORNIA, )

No. BC 074815

18 Plaintiff, )

AMENDED MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF DEFENDANTS  
SPECIAL MOTION TO STRIKE

19 vs. )

20 LARRY WOLLERSHEIM, )

21 Defendant. )

Date: July 2, 1993

22 )

Time: 9:00 a.m.

23 )

Dept: 14

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1 INTRODUCTION.

2 Plaintiff Church of Scientology of California ("Scientology") filed this action to set  
3 aside a \$2.5 million judgment which was upheld by the District Court of Appeal, in  
4 Wollersheim v. Church of Scientology of California (1989) 212 Cal.App.3d 872, 260 Cal.Rptr.  
5 331, and (1992) 3 Cal.App.4th 1290, 6 Cal.Rptr.2d 532, and which is currently pending  
6 before the California Supreme Court.<sup>1</sup>

7 This action was brought almost seven years after the trial verdict and eleven months  
8 after the allegedly "new evidence" upon which it is based came to the attention of  
9 Scientology's attorneys. It alleges improper conduct by trial judge Ronald Swearinger, but  
10 was conveniently filed shortly after Judge Swearinger died, so he can no longer defend  
11 himself. The action is untimely, improper, without merit, and filed to further harass  
12 defendant. Because it arises from defendant's exercise of his First Amendment right to  
13 petition the government (file a lawsuit), this action is subject to a special motion to strike  
14 under Code of Civil Procedure § 425.16,<sup>2</sup> which should be granted for the reasons set forth  
15 below.  
16

17 L THIS SPECIAL MOTION TO STRIKE IS AUTHORIZED BY § 425.16.

18 Recognizing the potential chilling effect of lawsuits brought primarily for the purpose  
19 of curbing the valid exercise of the constitutional rights of petition or freedom of speech,<sup>3</sup>  
20  
21

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22 <sup>1</sup>See discussion in footnote 13 below for a more detailed discussion of the appellate  
23 proceedings.

24 <sup>2</sup>Subsequent section references are to the Code of Civil Procedure, unless otherwise  
25 noted.

26 <sup>3</sup>The purpose of the legislation is set forth in its first subsection: "The Legislature finds  
27 that there has been a disturbing increase in lawsuits brought primarily to chill the valid  
28 exercise of the constitutional rights of freedom of speech and petition for redress of  
grievances. The Legislature also finds and declares that it is in the public interest to  
encourage continued participation in matters of public significance, and that this participation  
should not be chilled through abuse of the judicial process." § 425.16(a).



1 the California Legislature last year added § 425.16 to the Code of Civil Procedure. Effective  
2 January 1, 1993, the section specifies that an action arising from a defendant's exercise of  
3 the constitutional right to petition the government shall be subject to a motion to strike  
4 unless the plaintiff can show a "probability" of success on the merits.<sup>4</sup>

5 Plaintiff's complaint against defendant falls squarely within § 425.16. The complaint  
6 seeks to set aside the judgment in the action entitled Larry Wollersheim v. Church of  
7 Scientology of California, Los Angeles Superior Court No. C 332 027 (the "Main Action").  
8 The petition activity which is protected by this new statute includes "any written  
9 statement...made before a...judicial proceeding..." (§ 425.16(e).) This surely includes  
10 defendant Wollersheim's filing of a complaint in the Main Action. The complaint in this  
11 action arises from the defendant's exercise of his right to petition the government in one of  
12 its most fundamental forms, filing a lawsuit. Therefore, defendant brings this timely<sup>5</sup> special  
13 motion to strike.  
14

15  
16 **II THIS MOTION SHOULD BE GRANTED BECAUSE PLAINTIFF CAN NOT**  
17 **DEMONSTRATE A PROBABILITY THAT IT WILL PREVAIL ON ITS**  
18 **CLAIMS.**

19 As demonstrated below, plaintiff cannot meet its burden of establishing a probability<sup>6</sup>  
20

21 <sup>4</sup>Section 425.16(b) provides, in pertinent part: "A cause of action arising from any act  
22 of that person in furtherance of the person's right of petition or free speech in connection  
23 with a public issue shall be subject to a special motion to strike, unless the court determines  
24 that the plaintiff has established that there is a probability that the plaintiff will prevail on  
25 the claim."

26 <sup>5</sup>This special motion has been filed within 60 days of service of the complaint, as  
27 provided in § 425.16(f). See Plaintiff's proof of service, filed April 12, 1993.

28 <sup>6</sup>"Probable" is synonymous with "likely", and "probability" is synonymous with "likelihood".  
(Walbrook Insurance v. Liberty Mutual Insurance (1992) 5 Cal.App.4th 1445, 1461, 7  
Cal.Rptr.2d 513; see also Black's Law Dictionary (Rev.4th Ed. 1968) p.1364 ["probability"  
means "likelihood"].) "A 'probable' consequence is one more likely to follow its cause than  
not..." (Bastian v. County of San Luis Obispo (1988) 199 Cal.App.3d 520, 533, 245 Cal.Rptr.  
78.)



1 that it will prevail on the merits of its claims, as required by § 425.16(b).<sup>7</sup> Therefore, this  
2 special motion to strike should be granted.<sup>8</sup>

3 A. THIS COURT HAS NO JURISDICTION OVER THIS ACTION  
4 BECAUSE THE MAIN ACTION IS PENDING BEFORE THE  
CALIFORNIA SUPREME COURT.

5 The special motion to strike should also be granted because the Main Action is  
6 pending before the California Supreme Court, and this Court has no jurisdiction to hear this  
7 action. Plaintiff has acknowledged that the Main Action is currently pending before the  
8 California Supreme Court. (Complaint ¶ 4.)

9 C.C.P. § 916(a) provides in relevant part:

10 "...the perfecting of an appeal stays proceedings in the trial court upon the judgment  
11 or order appealed from or upon the matters embraced therein or affected thereby..."

12 Under this provision, a trial court has no power to vacate an appealed judgment while the  
13 appeal is pending. (Elsea v. Saberi (1992) 4 Cal.App.4th 625, 629, 5 Cal.Rptr.2d 742.)<sup>9</sup>

14 Furthermore, one department of the Superior Court cannot enjoin or otherwise  
15 interfere with the judicial act of another department in the same court. (Elsea v. Saberi,  
16 supra, 4 Cal.App.4th at 631.)

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21 <sup>7</sup>Unlike a demurrer, where the Court is limited to considering matters appearing on the  
22 face of the complaint (or matters of which judicial notice is taken), on a § 425.16 special  
23 motion to strike, the Court "shall consider the pleadings, and supporting and opposing  
24 affidavits stating the facts upon which the liability or defense is based." § 425.16(b).

25 <sup>8</sup>In addition to the defects discussed in the following subsections, the complaint omits a  
26 necessary party -- the Superior Court of Los Angeles County, under § 389(a).

27 <sup>9</sup>Even if the complaint alleges extrinsic fraud (see discussion that the complaint alleges  
28 intrinsic fraud, in II-E below), the trial court does not have jurisdiction to vacate a judgment:  
"In effect the appeal removed from the jurisdiction of the Superior Court the subject-matter  
of the judgment. A motion to vacate for extrinsic fraud is embraced within the subject  
matter of a judgment appealed from." (Hurst v. Hazel Hurst Foundation for the Blind  
(1955) 134 Cal.App.2d 686, 689, 286 P.2d 53, 55, cited with approval in Beresh v. Sovereign  
Life Insurance Company of California (1979) 92 Cal.App.3d 547, 562, 155 Cal.Rptr. 74.)



1 B. THIS COURT HAS NO JURISDICTION OVER THIS ACTION  
2 BECAUSE IT IS MERELY A DISGUISED ATTEMPT TO BRING AN  
3 UNTIMELY MOTION FOR A NEW TRIAL

4 The plaintiff's claims here, of judge and jury bias and misconduct, are claims that  
5 should have been raised in a motion for new trial in the Main Action. (§ 657 (1) & (2).)  
6 Such a motion must be filed within 15 days after notice of entry of judgment or 180 days  
7 after entry of judgment. (§ 659 (2).) The court has no jurisdiction to enter gain an untimely  
8 motion for new trial. (Ehrler v. Ehrler (1981) 126 Cal.App.3d 147, 151, 178 Cal.Rptr. 642;  
9 Tri-County Elevator Co. v. Superior Court (1982) 135 Cal.App.3d 271, 277, 185 Cal.Rptr.  
10 208).

11 Scientology, however, instead of raising these claims in a timely motion for new trial,  
12 has raised them in a separate action, almost seven years after the trial verdict in the Main  
13 Action, and has improperly attempted to depose Main Action jurors,<sup>10</sup> which is prohibited by  
14 law.<sup>11</sup> As discussed above, the Court has no jurisdiction to the relief sought here.

15  
16  
17 <sup>10</sup>Plaintiff noticed depositions in this action of Main Action jurors and other court  
18 personnel before defendant had even appeared in this action. Depositions of Main Action  
19 jurors Andre Anderson and Terri Reuter were originally noticed for May 18, 1993.  
20 Depositions of Main Action court clerk Cynthia Buter (misspelled as Butler) and bailiff  
21 Antoinette Carrasco were originally noticed for May 28, 1993. (See defendant's Application  
22 for Ex Parte Order to Stay All Discovery and the Declaration of Laurie J. Bartilson in  
23 Opposition, both filed May 27, 1993, and Exhibit 9 (plaintiff's deposition notices) filed  
24 herewith.)

25 In addition, Scientology attempted to take depositions of Main Action jurors and  
26 court personnel in two federal actions. (Amd. O'Reilly Decl., Ex. 1, ¶ 10.)

27 <sup>11</sup>In Linhart v. Nelson (1976) 18 Cal.3d 641, 644-645, 134 Cal.Rptr. 813, the Court held  
28 that in civil cases parties may not subpoena jurors or other witnesses to support a claim of  
jury misconduct: "To allow a disappointed litigant to call witnesses in support of his motion  
[for new trial] could effectively allow retrial of his case. ...[P]ermitting jurors or other  
witnesses to testify for one party would mean that opposing parties – unaware of the  
proposed testimony – would be obligated to subpoena all jurors and other witnesses in  
preparation for hearing. [¶] Moreover, permitting counsel for the losing party to  
interrogate unwilling trial jurors touches the integrity of our venerable jury process. First,  
once aware that after sitting through a lengthy trial he himself may be placed on trial, only  
the most courageous prospective juror will not seek excuse from service. Secondly, if jury  
deliberations are subject to compulsory disclosure, independent thought and debate will  
surely be stifled."



1 C. THIS ACTION IS BARRED BECAUSE IT IS UNTIMELY AND  
2 PLAINTIFF HAS NOT EXERCISED DUE DILIGENCE IN RAISING  
3 THESE CLAIMS.

4 A party bringing an equitable action such as this to set aside a judgment must "[h]ave  
5 acted with due diligence in discovering the facts constituting the basis for relief."

6 (Restatement 2nd, Judgments, § 70(2)(a), quoted in 8 Witkin, Cal. Procedure (3d ed. 1985),  
7 Attack on Judgment in Trial Court, § 204, p. 604.) He must also show diligence in seeking  
8 relief after discovery of the facts. (Witkin, supra, § 218, p. 622.) Grounds for  
9 disqualification of a judge, such as those alleged here, must be "presented at the earliest  
10 practicable opportunity after discovery of the facts constituting the ground for  
11 disqualification." § 170.3(c)(1). Plaintiff did not exercise due diligence here, either in  
12 discovering the alleged new facts, or in bringing them to the attention of the Court.

13 The judgment in the Main Action, which plaintiff attacks in this action, was rendered  
14 on July 22, 1986. (Complaint

15 ¶ 1.) In post-trial interviews with the jurors, plaintiff says its attorneys learned that some  
16 jurors believed that they were being followed by members of Scientology, and that one juror  
17 said that the jury had been told by court personnel that during the trial Judge Swearinger  
18 had been the subject of vandalism. (Id. ¶ 7.) Plaintiff unsuccessfully requested discovery  
19 regarding these matters in post-trial motions in the Main Action. (Id. ¶ 8.) There is no  
20 indication in the complaint that plaintiff did anything further regarding this matter until  
21 March 1992.

22 On March 19 and 23, 1992, Scientology says its attorneys conducted interviews with  
23 William Horne which led Scientology to believe that Judge Swearinger was biased against  
24 Scientology. (Id., pars. 11-13.) Yet plaintiff waited almost a full year, until after Judge  
25 Swearinger had died, to file this action.  
26



1 Thus, plaintiff filed this action almost seven years after the underlying events, and  
2 almost eleven months after plaintiff claims to have received the "new evidence". This is not  
3 the earliest practicable opportunity or due diligence, and the granting of the relief requested  
4 would be seriously prejudicial to defendant Wollersheim, forcing on him a burden to litigate  
5 matters now more than seven years old. (See McCreadie v. Arques (1967) 248 Cal.App.2d  
6 39, 47, 56 Cal.Rptr. 188.)

7 Further, the time has long since expired for the plaintiff to seek relief from the  
8 judgment of this Court under § 473. (See Church of Scientology of California v. Armstrong  
9 (1991) 232 Cal.App.3d 1060, 1069-70, 283 Cal.Rptr. 917.)

10 D. PLAINTIFF DOES NOT PLEAD AND CAN NOT SHOW THAT IT HAS  
11 A MERITORIOUS DEFENSE IN THE MAIN ACTION.

12 The relief sought by plaintiff in this action must also be denied because plaintiff does  
13 not plead, and can not show, that it has a meritorious defense:

14 "A valid judgment will not be set aside merely because it was obtained by extrinsic  
15 fraud or mistake, in order to give the barren right of an adversary hearing. The  
16 plaintiff must plead and prove that he has a meritorious case, i.e., a good claim or  
17 defense which, if asserted in a new trial, would be likely to result in a judgment  
favorable to him."

18 (8 Witkin, Cal. Procedure, supra, § 216, p. 620, quoted in New York Higher Education  
19 Assistance Corporation v. Siegel (1979) 91 Cal.App.3d 684, 688-689, 154 Cal.Rptr. 200.)

20 The complaint in this action does not even allege that plaintiff has a meritorious case  
21 which would likely result in a favorable judgment in a new trial. Furthermore, upon  
22 weighing the entire trial court record, the First District Court of Appeal unanimously  
23 concluded that "there is ample evidence to support the jury's verdict on Wollersheim's claim  
24 for intentional infliction of emotional distress." (Wollersheim v. Church of Scientology,  
25 supra, 212 Cal.App.3d at 882.) This conclusion has remained undisturbed in the subsequent  
26 appellate litigation regarding the punitive damages issue. (See fn.13 below.)  
27  
28



1 E. PLAINTIFF'S COMPLAINT IS NOT SUFFICIENT TO SET ASIDE THE  
2 JUDGMENT BECAUSE IT ALLEGES AT MOST INTRINSIC FRAUD.

3 Plaintiff's complaint alleges intrinsic, not extrinsic, fraud. However, this is not  
4 grounds for an equitable action to set aside a judgment. As Witkin notes:

5 "Ordinarily, if the aggrieved party is aware of the proceeding and is not prevented  
6 from appearing, any fraud is intrinsic and not a basis for equitable relief..." ...  
7 "If the aggrieved party had a reasonable opportunity to appear and litigate his claim  
8 or defense, fraud occurring in the course of the proceeding is not a ground for  
9 equitable relief. The theory is that these matters will ordinarily be exposed during  
10 the trial by diligence of the party and his counsel, and that the occasional  
11 unfortunate result of undiscovered perjury or other intrinsic fraud must be endured in  
12 the interest of stability of final judgments."

13 (8 Witkin, Cal Procedure, supra, § 207, p. 606; § 221, p. 625; Kulchar v. Kulchar (1969) 1  
14 Cal.3d 467, 472-473, 82 Cal.Rptr. 489.)

15 Here, Scientology was not prevented from appearing and defending in the Main  
16 Action by any extrinsic fraud. Any fraud alleged is intrinsic and not grounds for the relief  
17 sought.

18 F. PLAINTIFF CAN NOT DEMONSTRATE A PROBABILITY THAT IT  
19 WILL PREVAIL ON ITS CLAIM IN THIS ACTION THAT JUDGE  
20 SWEARINGER SHOULD HAVE BEEN DISQUALIFIED.

21 Plaintiff's theory of this action seems to be that Judge Swearinger was biased against  
22 plaintiff and therefore should have been disqualified under §§ 170.1 and 170.6. (Complaint  
23 ¶ 6.) However, the facts alleged in the complaint do not state grounds for disqualification  
24 under § 170.1. Scientology had no claim against Judge Swearinger under § 170.6 because it  
25 had already used its § 170.6 claim to disqualify Judge Lopez in the Main Action. (Amd.  
26 O'Reilly Decl., Ex. 1, ¶ 6.) In any case, any such disqualification claim may only be  
27 reviewed by a timely petition for writ of mandate -- not by a subsequent independent action.  
28 (§ 170.3(d); People v. Hull (1991) 1 Cal.4th 266, 276, 2 Cal.Rptr.2d 526.) This requirement,  
not met here, prevents the "intolerable windfall" which Scientology seeks here:

"...an 'intolerable windfall' would result if a challenging party were to fail to seek  
immediate review of an unsuccessful challenge, attempt to obtain a favorable  
judgment, and if that effort failed, take a 'second bite at the apple' by reasserting the



1 peremptory challenge on appeal."

2 (Andrisani v. Saugus Colony Limited (1992) 8 Cal.App.4th 517, 526, 10 Cal.Rptr.2d 444.)

3 G. PLAINTIFF CAN NOT DEMONSTRATE A PROBABILITY THAT IT  
4 CAN PROVE KEY FACTS WHICH IT ALLEGES IN ITS COMPLAINT.

5 The declarations presented by defendant in support of this motion indicate that key  
6 "facts" alleged in the complaint did not occur. Andre Anderson, the jury foreperson, who  
7 was present at all proceedings in front of the jury and throughout all the jury deliberations  
8 in the Main Action, states unequivocally that there was no reference to nor comment, by any  
9 juror or any other person in his present, about Judge Swearinger's tires being slashed, his  
10 dog dying, or that he was being followed, harassed or bothered by Scientology. Anderson  
11 Decl., Ex. 3. Antoinette Carrasco Saldana, one of the court bailiffs who was present during  
12 the trial of the Main Action, states unequivocally that during the trial she was not aware of  
13 any unfavorable beliefs or biases held by Judge Swearinger against Scientology, that Judge  
14 Swearinger never mentioned any strange occurrences for which the Judge suspected  
15 Scientology was or might be responsible, or that the Judge's tires were slashed; and that they  
16 have no knowledge of any statements regarding any of these matters to any member of the  
17 jury during the trial. (Saldana Decl., Ex. 5.) After the verdict, Wollersheim's counsel met  
18 with all the jurors (except one alternate), had extensive discussions of the jury deliberations  
19 process, and there was no mention of any of these matters. (Amd. O'Reilly Decl., Ex. 1, ¶  
20 9.)  
21 9.)

22 In contrast, the complaint (at ¶¶ 7, 9, 11-14, 17-19) cites only hearsay, and sometimes  
23 double or triple hearsay, in support of its claims that Judge Swearinger was biased against  
24 Scientology or that he somehow infected the jury.



1 H. THIS ACTION IS BARRED BY COLLATERAL ESTOPPEL BECAUSE  
2 THE CLAIMS MADE BY PLAINTIFF HERE WERE ALREADY RAISED  
3 BY PLAINTIFF AND REJECTED BY THE COURTS IN THE MAIN  
4 ACTION AND IN ANOTHER PROCEEDING.

5 In the course of the Main Action, Scientology launched unsuccessful attacks on Judge  
6 Ronald Swearinger, accusing him of bias and prejudice, particularly after the Judge ruled  
7 against Scientology on an important point. This included filing an action in approximately  
8 March of 1986, Church of Scientology v. Superior Court, USDC-CDCal, CV 86-1362 ER,  
9 against Judge Swearinger and the Los Angeles Superior Court, which was dismissed by Judge  
10 Edward Rafeedie.<sup>12</sup> It also included a formal motion in the Main Action to disqualify Judge  
11 Swearinger in early May 1986, which was denied. (Amd. O'Reilly Decl., Ex. 1, ¶ 8b.)

12 In its appeal of the trial court verdict, Scientology, in addition to its constitutional  
13 claims, raised "a broad spectrum of issues" which the Court of Appeal concluded had no  
14 merit. (Wollersheim v. Church of Scientology (1989) 212 Cal.App.3d 872, 880-881, 260  
15 Cal.Rptr. 331, affirmed on these matters (1992) 3 Cal.App.4th 1290, 6 Cal.Rptr.2d 532  
16 fn.1.)<sup>13</sup>

17  
18 <sup>12</sup>Defendant requests that the Court take judicial notice of the judicial proceedings and  
19 decisions of other courts referred to here and elsewhere in this memorandum, pursuant to  
20 Evidence Code §§ 451(a), 452(a), (c), (d), & (h), & 453. Copies of federal court decisions  
21 cited herein are included with the exhibits filed herewith.

22 <sup>13</sup>As the complaint notes (¶ 4), the U. S. Supreme Court vacated judgment in 1991, the  
23 Court of Appeal again entered judgment in 1992, and the California Supreme Court granted  
24 Scientology's petition for review in July 1992, holding the case pending decision by the U. S.  
25 Supreme Court in TXO Production Corp. v. Alliance Resources Corp. and by the California  
26 Supreme Court in Gourley v. State Farm Mutual Automobile Ins. Co. and MGW, Inc. v.  
27 Fredericks Development Corp. The July 1992 Court of Appeal decision, responding to the  
28 remand from the U. S. Supreme Court, addressed only issues regarding punitive damages and  
reaffirmed its previous decision as to all other matters. Wollersheim v. Church of  
Scientology of California (1992) 3 Cal.App.4th 1290, 6 Cal.Rptr. 2d 532, 534 fn.1. The cases  
the California Supreme Court is holding Wollersheim pending decision in all deal with  
punitive damages issues. See MGW, supra (7/9/92) 10 Cal.Rptr.2d 85, 832 P.2d 586;  
Gourley, supra (1991) 53 Cal.3d 121, 130, 3 Cal.Rptr.2d 666, granted 7/9/92; discussion re  
TXO, supra, in Daily Journal, US Supreme Court Pending Cases (5/27/93) 32-33. Thus, the  
courts have upheld the Wollersheim verdict as to all challenges except for the punitive  
damages issue.



1 Therefore, the claim by Scientology in this action that Judge Swearinger was biased  
2 against Scientology is barred by the doctrine of collateral estoppel, which prevents plaintiff  
3 from re-litigating issues which were or could have been raised. (Clemente v. State (1985) 40  
4 Cal.3d 202, 222, 219 Cal.Rptr. 445.)

5 I THIS ACTION IS PART OF PLAINTIFF'S LITIGATION STRATEGY TO  
6 USE THE COURTS TO HARASS ITS OPPONENTS.

7 Scientology embraces the use of litigation to harass its opponents. Its founder, L.  
8 Ron Hubbard, has described this practice as follows:

9 The purpose of the suit is to harass and discourage rather than to win. [¶] The law  
10 can be used very easily to harass, and enough harassment on somebody who is simply  
11 on the thin edge anyway...will generally be sufficient to cause his professional  
12 decease. If possible, of course, ruin him utterly.<sup>14</sup>

13 Vicki Aznaran, who was one of the highest worldwide officials of Scientology, states  
14 in her declaration:

15 Hubbard writings encourage Scientologists to pursue litigation purely for harassment  
16 without regard to the merits of a claim to cause enemies to fold. -- [¶]  
17 It is the stated policy and practice of Scientology to use the legal system to abuse  
18 and harass its enemies. This crude, fundamental directive of Scientology is no secret.  
19 The policy is to do anything and everything possible to harass the opposing litigant  
20 without regard to whether any particular motion or maneuver is appropriate or  
21 warranted by the facts or applicable law. That policy was followed in every legal case  
22 I was involved with or learned about while a member of the Sea Organization. The  
23 management of Scientology consistently expressed and demonstrated a complete  
24 disdain for the court system, viewing it as nothing more than a method to harass

25 <sup>14</sup>From L. Ron Hubbard, The Technical Bulletins of Dianetics and Scientology, Volume  
26 II, p. 157. A copy of the relevant portion of this document is attached as Exhibit A to, and  
27 is authenticated by, Armstrong Decl., Ex. 6, ¶ 5.

28 Top Scientology official Jane Kember, in an internal Scientology document, explained  
that Scientology legal strategy in the U.S. is to use litigation as a financial club:  
"The button used in effecting settlement is purely financial. In other words, it is more costly  
to continue the legal action than to settle in some fashion. -- [¶] Therefore, it is imperative  
that legal US Dev-T his opponents and their lawyers with correspondence (a lawyer's letter  
costs approx \$50), phone calls (time costs), interrogatories, depositions and whatever else  
legal can mock up. [¶] One of the bright spots of US legal is that even if you lose you  
don't pay your opponent for his lawyers fees." A copy of the document containing this  
statement is attached as Exhibit B to, and is authenticated by, Armstrong Decl., Ex. 6, ¶ 6.  
The phrase "Dev-T" is a term which Scientology uses to mean to cause someone to do  
unnecessary work. Id.



1 enemies.

2 Aznaran Decl., Ex. 7, 4:3-5, 5:3-14; see also Armstrong Decl., Ex. 6, ¶¶ 4, 8.

3 Scientology's use of litigation to harass opponents<sup>15</sup> is essentially an application of its  
4 "Fair Game" doctrine.<sup>16</sup> Under this doctrine, enemies of Scientology can be "deprived of  
5 property or injured by any means by any Scientologist" or "tricked, sued or lied to or  
6 destroyed".<sup>17</sup>

7 Defendant Wollersheim has himself been a victim of the Scientology litigation  
8 harassment strategy, of which this action is a part. This includes being subjected to a six-  
9

10  
11 <sup>15</sup>In Church of Scientology of California v. Cazares (5 Cir. 1981) 638 F.2d 1272, 1290,  
12 the court ruled that the civil rights action filed by Scientology against the Mayor of  
13 Clearwater, Florida, "was frivolous, unreasonable and groundless. In Church of Scientology  
14 of California v. McLean (5 Cir. 1980) 615 F.2d 691, 693, Scientology moved to disqualify one  
15 of defendants' attorneys in a slander suit it had filed; the court found Scientology's position  
16 "not only without merit but frivolous." In Church of Scientology of California v. Siegelman  
17 (USDC, SDNY 1979) 475 F.Supp. 950, 951, the court referred to "the litigious Church of  
18 Scientology".

16 <sup>16</sup>The "Fair Game" doctrine is quoted and/or discussed in Church of Scientology of  
17 California v. Armstrong (1991) 232 Cal.App.3d 1060, 1067, 283 Cal.Rptr. 917; Wollersheim v.  
18 Church of Scientology of California (1989) 212 Cal.App.3d 872, 879-880; and Allard v.  
19 Church of Scientology of California (1976) 58 Cal.App.3d 439, 443 fn.1, 447 fn.4, 129  
20 Cal.Rptr. 797; see also Armstrong Decl., Ex. 6, ¶¶ 4, 7-8; Aznaran Decl., Ex. 7, 2:10-5:14.

19 <sup>17</sup>Judge Paul G. Breckenridge, Jr., made the following observations about Scientology in  
20 Church of Scientology of California v. Armstrong, Los Angeles Superior Court, No. C  
21 420153, which decision was affirmed in Church of Scientology of California v. Armstrong  
22 (1991) 232 Cal.App.3d 1060, 1074, 283 Cal.Rptr. 917: "In 1970 a police agency of the  
23 French Government conducted an investigation into Scientology and concluded, 'this sect,  
24 under the pretext of "freeing humans" is nothing in reality but a vast enterprise to extract  
25 the maximum amount of money from its adepts by (use of) pseudo-scientific theories, by (use  
26 of) "auditions" and "stage settings" (lit. to create a theatrical scene) pushed to extremes (a  
27 machine to detect lies, its own particular phraseology...), to estrange adepts from their  
28 families and to exercise a kind of blackmail against persons who do not wish to continue  
with this sect.' From the evidence presented to this court in 1984, at the very least, similar  
conclusions can be drawn. In addition to violating and abusing its own members civil rights,  
the organization over the years with its 'Fair Game' doctrine has harassed and abused those  
persons not in the Church whom it perceives as enemies. The organization clearly is  
schizophrenic and paranoid..." Memorandum of Intended Decision, June 20, 1984, p. 8, a  
copy of which is attached as Exhibit C to, and authenticated in ¶ 10 of, Armstrong Decl.,  
Ex. 6. On July 20, 1984, the court issued an order deeming its memorandum of intended  
decision as its statement of decision.



1 month trial in the Main Action, countless meritless motions by Scientology, and having to  
2 oppose at least six (ultimately unsuccessful) emergency writ petitions to the Court of Appeal  
3 (Amd. O'Reilly Decl., Ex. 1, ¶ 12.)<sup>18</sup>

4 While the Main Action was pending, Scientology filed a federal RICO suit against  
5 Wollersheim, as well as his attorneys and his two primary expert witnesses in the Main  
6 Action; this case was finally dismissed last year. (Religious Technology Center v.  
7 Wollersheim (9 Cir. 1986) 796 F.2d 1076, cert. den. 479 US 1103; dismissed (1992) 971 F.2d  
8 364.) This was in addition to the federal action filed by Scientology to disqualify Judge  
9 Swearinger (Amd. O'Reilly Decl., Ex. 1, ¶ 8a). In both federal actions and in this action,  
10 Scientology improperly attempted to depose jurors and court personnel from the Main  
11 Action (see fn.10).

12  
13 In addition, Scientology has consciously attempted to deprive Wollersheim of counsel  
14 and key witnesses and evidence in the Main Action, and has subjected him to its Fair Game  
15 policy. (Wollersheim Decl., Ex. 2)

16 J. THIS ACTION IS PART OF PLAINTIFF'S LITIGATION STRATEGY OF  
17 ATTACKING JUDGES WHO RULE AGAINST THEM AS BIASED.

18 Scientology's litigation strategy includes attacking judges who rule against it,  
19 attempting to disqualify them based on claims of bias and prejudice. (Armstrong Decl., Ex  
20 6, ¶ 9.)<sup>19</sup> Scientology pursued this strategy with a vengeance in the Main Action and

21  
22 <sup>18</sup>In addition, from the beginning of the pre-trial proceedings until the end of the  
23 case, Wollersheim's counsel had to spend approximately \$450,000 on security to protect  
24 Wollersheim, his counsel, and his witnesses from threatened violence from a Scientology mob  
25 which subjected Wollersheim and his counsel to constant harassment and abuse. (Amd.  
O'Reilly Decl., Ex. 1, ¶ 11; Wollersheim Decl., Ex. 2.)

26 <sup>19</sup>See also Church of Scientology of California v. Cooper (DC Cal. 1980) 495 F.Supp.  
27 455, 461, where the court ruled that plaintiff's recusal motion was based on false allegations  
28 but nonetheless granted the recusal motion; United States v. Heldt (DC Cir. 1981) 668 F.2d  
1238, 1269-74, cert.den. 102 S.Ct. 1971, a criminal case against top Scientology officials,  
where the Court of Appeals rejected the defendants' arguments that trial Judge Richey  
should have been disqualified and called them "somewhat disingenuous".



1 derivative cases, disqualifying Judge Lopez under § 170.6 and attempting to disqualify Judges  
2 Swearinger and Margolis and the entire Los Angeles County Superior Court for bias in the  
3 Main Action, and filing an unsuccessful separate federal action, Church of Scientology v.  
4 Superior Court, USDC-C.D.Cal., CV 86-1362, which sought to disqualify Judge Swearinger in  
5 the Main Action because of alleged bias, as well as attempting to disqualify the entire U. S.  
6 District Court for the Central District of California because of alleged bias, in the federal  
7 "RICO" action filed against Wollersheim and his counsel and expert witnesses, RTC v.  
8 Wollersheim. (Amd. O'Reilly Decl., Ex. 1, ¶¶ 4, 5, 6 & 8.) This new lawsuit is merely the  
9 continuation of the same strategy with another vehicle.

10  
11 K. PLAINTIFF HAS UNCLEAN HANDS AND IS NOT ENTITLED TO THE  
EQUITABLE RELIEF SOUGHT.

12 This lawsuit seeks equitable relief, which should be denied because plaintiff has  
13 unclean hands.

14 "Under the 'unclean hands' doctrine, a party is barred from relief if he has engaged  
15 in any unconscientious conduct directly related to the transaction or matter before  
16 the court."

17 (DeRosa v. Transamerica Title Insurance Co. (1989) 213 Cal.App.3d 1390, 1395, 262  
18 Cal.Rptr. 370.)

19 Here, as demonstrated above and in the footnote, plaintiff Scientology has engaged in  
20 abusive and unconscientious conduct directly related to the Main Action, the judgment in  
21 which this lawsuit seeks to set aside. This includes attempting to deprive defendant of his  
22 right to petition the government through use of litigation to harass him, falsification/  
23 concealment of crucial evidence,<sup>20</sup> improper attempts to depose Main Action jurors and  
24

25 <sup>20</sup>Vicki Aznaran, then the top ecclesiastical authority within Scientology, states under  
26 penalty of perjury that after the judge in the Main Action ordered production of  
27 Wollersheim's folders, she "removed contents that might have been damaging to Scientology  
28 or might have supported Wollersheim's claims against Scientology. For example, I removed  
evidence of events involving his family, the anguish this caused him, evidence of  
disconnection from family and evidence of fair game." Aznaran Decl., Ex. 7, 6:1-9. Former  
Scientology attorney Joseph Yanny also states that during the Main Action there was



1 court personnel, efforts to deprive defendant of counsel, key witnesses and evidence, and  
2 subjecting him to the "Fair Game" policy. Therefore, equitable relief should be denied  
3 because of plaintiff's unclean hands.

4  
5 CONCLUSION.

6 Defendant's special motion to strike falls squarely within the scope of § 425.16.  
7 Plaintiff's action arises from defendant's exercise of his First Amendment right to petition  
8 the government by filing a lawsuit. Plaintiff cannot meet its burden of establish a probability  
9 that it will prevail in the action, for the reasons set forth above. Defendant's special motion  
10 to strike should therefore be granted and defendant should be awarded his attorneys' fees  
11 and costs.<sup>21</sup>

12  
13 Dated: June 17, 1993

Respectfully submitted,

Daniel Leipold  
Hagenbaugh & Murphy

Mark Goldowitz

Special Counsel for Defendant

14  
15  
16  
17 By Mark Goldowitz  
18  
19  
20  
21  
22  
23

24  
25 <sup>21</sup>wholesale destruction of evidence, theft of documents from private persons, and attempts to  
infiltrate the Court chambers of [Judge] Swearinger." Yanny Decl., Ex. 8, 32:25-27.

26 <sup>21</sup>Section 425.16(c) provides that a prevailing defendant on a special motion to strike  
27 "shall be entitled to his or her attorney's fees and costs." This language is mandatory.  
28 Defendant should therefore be awarded his fees and costs, which will be established by  
separately noticed motion if attempts at informal resolution of this matter do not succeed.



PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 701 S. Parker, Ste. 8200, Orange, California, 92668.

On June 21, 1993 I served the foregoing document described as: NOTICE OF RULING ON DEFENDANT'S EX PARTE APPLICATION FOR RELIEF FROM MISTAKE, ORDER RE EX PARTE APPLICATION FOR RELIEF FROM MISTAKE, and AMENDED MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT OF DEFENDANT'S SPECIAL MOTION TO STRIKE on the parties in this action

by placing the true copies thereof enclosed in sealed envelopes addressed as stated in the attached mailing list:

by placing  the original  a true copy thereof enclosed in sealed envelopes addressed as follows:

Laurie Bartilson  
BOWLES & MOXON  
6255 Sunset Blvd. Ste. 2000  
Hollywood, California, 90028

Also sent via Facsimile

BY MAIL

I deposited such envelope in the mail at , California. The envelope was mailed with postage thereon fully prepaid.

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Orange, California.

PERSONAL SERVICE - I delivered such envelope by hand to the offices of the addressee.

Executed on at , California.

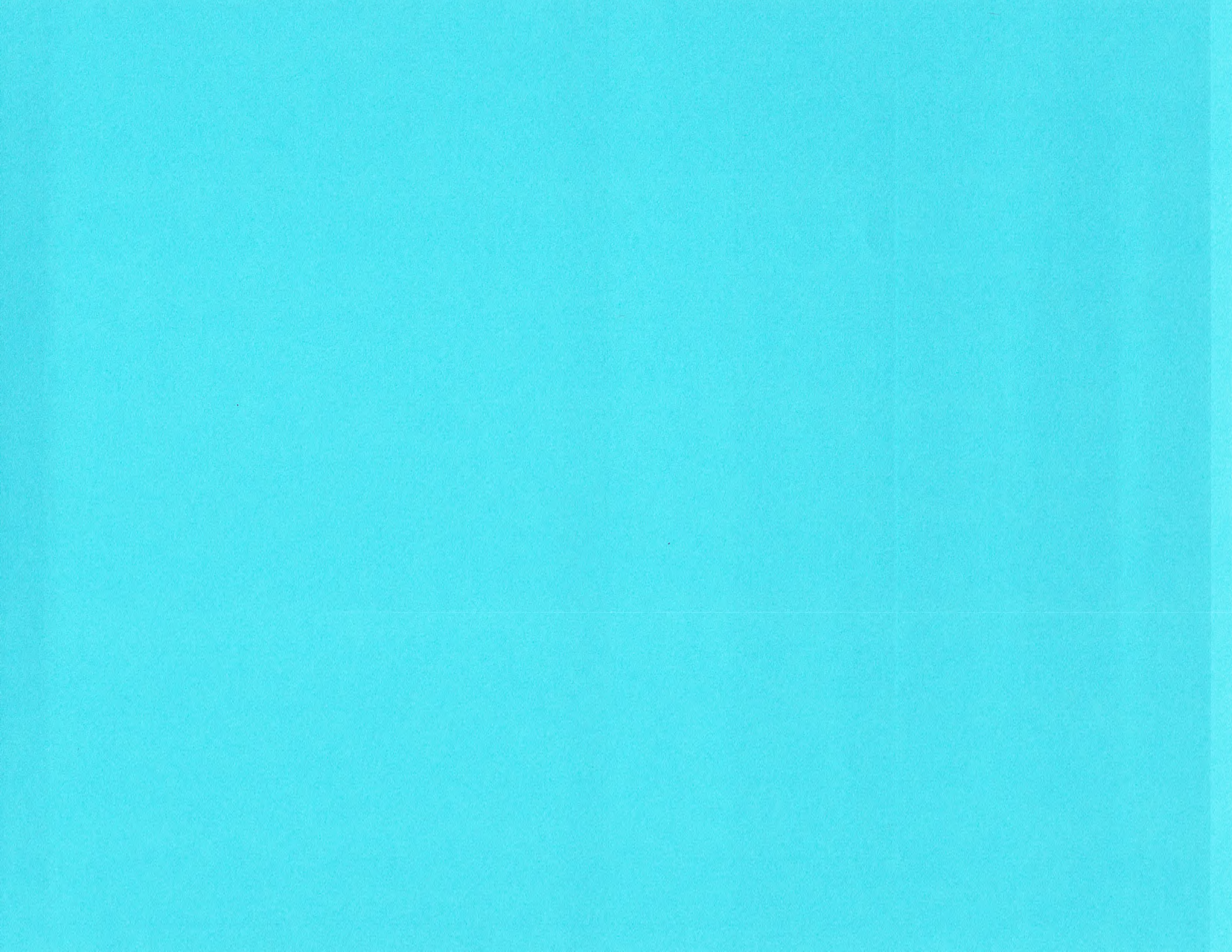
(State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Nancy J. Greenan













1 assigned me to the RPF, this time for eight months first in La  
2 Quinta, then at a newly purchased base in Gilman Hot Springs  
3 near Hemet, California. When I got out of the RPF in the  
4 Spring of 1979 and until the beginning of 1980, I worked in  
5 Hubbard's "Household Unit" (HU) at Gilman, the SO unit which  
6 took care of Hubbard's house, personal effects, transport,  
7 meals and so forth, as the "Purchaser," "Renovations In-Charge"  
8 and "Deputy Commanding Officer HU."

9       3. Throughout 1980 and until I left the organization in  
10 December 1981 I held the organization posts in Hubbard's  
11 "Personal Public Relations Bureau" of "LRH Archivist" and "LRH  
12 Personal Researcher." I assembled in Los Angeles an archive of  
13 Hubbard's writings and other materials relating to his history  
14 to be used as, inter alia, the basis for a biography to be  
15 written about the man. I also worked in Los Angeles for the  
16 first few months of 1980 on Mission Corporate Category Sortout  
17 (MCCS), which had the purpose of restructuring the Scientology  
18 enterprise so that Hubbard could continue to control it without  
19 being liable for its actions. Beginning in the fall of 1980  
20 and continuing until my departure, I provided the biographical  
21 writings and other materials, as I collected and organized  
22 them, to Omar Garrison, who had contracted with the  
23 organization to write the Hubbard biography. I interviewed  
24 many people who had known Mr. Hubbard at periods throughout his  
25 life, including almost all of his known living relatives. I  
26 traveled several thousand miles collecting biographical  
27 information and conducting a genealogy search, and arranged the  
28 purchase of a number of collections of Hubbard-related



1 documents and other materials from individual collectors.

2 4. As a result of the activities described above, I have  
3 become very familiar with Scientology policies, practices, and  
4 policy documents. I also know that the Church of Scientology  
5 of California, as part of the Scientology organization, has  
6 followed and implemented these policies and practices,  
7 including those described below.

8 5. Attached to this declaration as Exhibit A is a true  
9 copy of a portion of volume II of The Technical Bulletins of  
10 Dianetics and Scientology, by L. Ron Hubbard, the founder of  
11 Scientology. It includes (at page 157) the following  
12 description of Scientology's practice of using litigation to  
13 harass its opponents:

14 The purpose of the suit is to harass and discourage rather  
15 than to win. [¶] The law can be used very easily to  
16 harass, and enough harassment on somebody who is simply on  
the thin edge anyway...will generally be sufficient to  
cause his professional decease. If possible, of course,  
ruin him utterly.

17 6. Attached to this declaration as Exhibit B is a true  
18 copy of an internal Scientology document, Guardian Order 166,  
19 dated October 7, 1971. This document was written by the then  
20 Guardian, Jane Kember, at that time the most senior Scientology  
21 official under L. Ron Hubbard and his wife, Mary Sue Hubbard.  
22 GO 166 was included in the Intelligence Course Pack which I  
23 studied while I was the Intelligence Officer on Scientology's  
24 ship the "Apollo" in the 1970's. This document includes the  
25 following explanation that Scientology legal strategy in the  
26 U.S. is to use litigation as a financial club:

27 The button used in effecting settlement is purely  
28 financial. In other words, it is more costly to continue  
the legal action than to settle in some fashion. ... [¶]



1 Therefore, it is imperative that legal US Dev-T his  
2 opponents and their lawyers with correspondence (a  
3 lawyer's letter costs approx \$50), phone calls (time  
4 costs), interrogatories, depositions and whatever else  
legal can mock up. [¶] One of the bright spots of US  
legal is that even if you lose you don't pay your opponent  
for his lawyers fees.

5 The phrase "Dev-T" is a term which Scientology uses to mean to  
6 cause someone to do unnecessary work.

7 7. Since leaving the Scientology organization, I have  
8 monitored the conduct of the organization, including the Church  
9 of Scientology of California. I am familiar with, and have  
10 been a target and victim of the "fair game" doctrine, which was  
11 described by the California Court of Appeal decisions in Church  
12 of Scientology v. Armstrong, Allard v. Church of Scientology,  
13 and Wollersheim v. Church of Scientology. Although Scientology  
14 claims that the "fair game" doctrine has been abandoned, I know  
15 from personal experience that this is not true, at least as  
16 recently as this year. For instance, Scientology attempted in  
17 the first few months of 1993 to have me jailed for contempt of  
18 court based on the false declaration of a Scientologist lawyer,  
19 Laurie Bartilson, for acts which Scientology itself set up.  
20 This is only the most recent of over a decade of "dirty tricks"  
21 which Scientology personnel have directed at me.

22 8. From my personal experience, I know that Scientology  
23 does use the litigation approach described by Hubbard and  
24 Kember in the quotes above. In various cases, Scientology has  
25 subjected me to over 35 days of depositions. As a paralegal  
26 working on cases involving Scientology for 16 months for Boston  
27 attorney Michael Flynn and for almost two years for California  
28 attorney Ford Greene (to the present), I have observed



1 Scientology's litigation practices. Scientology regularly  
2 attempts to bludgeon the opposition into submission with a  
3 blizzard of meritless paper, motions, depositions, appeals,  
4 writs, Bar complaints, criminal complaints, perjured testimony,  
5 and other improper and abusive tactics.

6 9. I am also aware that Scientology uses an attack  
7 strategy against judges who rule against it, which includes  
8 claims of bias and prejudice and frequently personal attacks.  
9 For instance, in my case, Church of Scientology of California  
10 v. Armstrong, L.A. Superior Court No. C 420153, Scientology  
11 twice tried unsuccessfully to disqualify Judge Breckenridge  
12 from the case because of alleged bias, and levied personal  
13 attacks on him, accusing him publicly of Nazi affiliation.  
14 Similarly, in Aznaran v. Church of Scientology of California,  
15 U.S.D.C. C.D.Cal # CV-88-1786-JMI, Scientology unsuccessfully  
16 attempted to recuse Judge James Ideman because of alleged bias.

17 10. Attached to this declaration as Exhibit C is a true  
18 copy of the June 20, 1984 decision by Judge Paul G.  
19 Breckenridge, Jr., in the case of Church of Scientology of  
20 California v. Gerald Armstrong, L.A. Superior Court No. C  
21 420153, which was affirmed on appeal at 232 Cal.App.3d. 1060,  
22 283 Cal.Rptr. 917 (1991).

23 I declare, under penalty of perjury, that the foregoing is  
24 true and correct.

25 Executed this 4th day of June, 1993, at Oakland,  
26 California.



27  
28  
Gerald Armstrong



**EXHIBIT A**



*The*  
**Technical Bulletins**  
*of*  
**Dianetics and Scientology**

*by*  
**L. Ron Hubbard**  
FOUNDER OF DIANETICS AND SCIENTOLOGY

Volume  
**II**  
1954-1956

Scientology Publications

Copenhagen

Los Angeles

**EXHIBIT A**



Published in  
the United States of America  
by

CHURCH OF SCIENTOLOGY OF CALIFORNIA  
Publications Organization United States  
The American Saint Hill Organization  
2723 West Temple Street  
Los Angeles, California 90026

*The Church of Scientology of  
California is a non-profit organization*

Volume II ISBN 0-88404-042-9  
Complete Set ISBN 0-88404-051-8

and in all other countries  
by

AOSH DK Publications Department A/S  
Jernbanegade 6  
1608 Copenhagen V  
Denmark

Volume II ISBN 87-87347-82-2  
Complete Set ISBN 87-87347-90-3

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Compiled and edited in the LRH Special Projects Unit  
Editor-in-Chief: Ken Delderfield  
Editor: Gary W. Hedge  
Editorial Staff: Rosemary Delderfield, Pam Pierce, Janet Hedge,  
Teri Stewart, Helmut Gruber, Rod Pierce, Boy Nielsen, Leif Söderlund,  
Denise Chevarier, Mark Gamble and Ole Blem.

Printed in the United States of America by Kingsport Press, Inc.

EXHIBIT A



IN ALL SUCH CASES OF ARREST FOR THE PRACTICE OF SCIENTOLOGY, THE HASI WILL SEND A REPRESENTATIVE AT ONCE, BUT DO NOT WAIT FOR HIS ARRIVAL TO PLACE YOUR SUIT. THE SUIT MUST ALREADY HAVE BEEN FILED WHEN THE HASI ATTORNEY ARRIVES.

In other words, do not, at any moment leave this act unpunished, for, if you do you are harming all other Scientologists in the area. When you are attacked it is your responsibility then to secure from further attack not only yourself but all those who work with you. Cause blue flame to dance on the courthouse roof until everybody has apologized profusely for having dared to become so adventurous as to arrest a Scientologist who, as a minister of the church, was going about his regular duties. As far as the advices of attorneys go that you should not sue, that you should not attack, be aware of the fact that I, myself, in Wichita, Kansas, had the rather interesting experience of discovering that my attorney, employed by me and paid by me, had been for some three months in the employ of the people who were attacking me, and that this attorney had collected some insignificant sum of money after I hired him, by going over to the enemy and acting upon their advices. This actually occurred, so beware of attorneys who tell you not to sue. And I call to your attention the situation of any besieged fortress. If that fortress does not make sallies, does not send forth patrols to attack and harass, and does not utilize itself to make the besieging of it a highly dangerous occupation, that fortress may, and most often does, fall.

The DEFENSE of anything is UNTENABLE. The only way to defend anything is to ATTACK, and if you ever forget that, then you will lose every battle you are ever engaged in, whether it is in terms of personal conversation, public debate, or a court of law. NEVER BE INTERESTED IN CHARGES. DO, yourself, much MORE CHARGING, and you will WIN. And the public, seeing that you won, will then have a communication line to the effect that Scientologists WIN. Don't ever let them have any other thought than that Scientology takes all of its objectives.

Another point directly in the interest of keeping the general public to the general public communication line in good odor: it is vitally important that a Scientologist put into action and overtly keep in action Article 4 of the Code: "I pledge myself to punish to the fullest extent of my power anyone misusing or degrading Scientology to harmful ends." The only way you can guarantee that Scientology will not be degraded or misused is to make sure that only those who are trained in it practice it. If you find somebody practicing Scientology who is not qualified, you should give them an opportunity to be formally trained, at their expense, so that they will not abuse and degrade the subject. And you would not take as any substitute for formal training any amount of study.

You would therefore delegate to members of the HASI who are not otherwise certified only those processes mentioned below, and would discourage them from using any other processes. More particularly, if you discovered that some group calling itself "precept processing" had set up and established a series of meetings in your area, you would do all you could to make things interesting for them. In view of the fact that the HASI holds the copyrights for all such material, and that a scientific organization of material can be copyrighted and is therefore owned, the least that could be done to such an area is the placement of a suit against them for using materials of Scientology without authority. Only a member of the HASI or a member of one of the churches affiliated with the HASI has the authority to use this information. The purpose of the suit is to harass and discourage rather than to win.

The law can be used very easily to harass, and enough harassment on somebody who is simply on the thin edge anyway, well knowing that he is not authorized, will generally be sufficient to cause his professional decease. If possible, of course, ruin him utterly.

A D.Scn. has the power to revoke a certificate below the level of D.Scn. but not a D.Scn. However, he can even recommend to the CECS of the HASI that D.Scns. be revoked, and so any sincere Scientologist is capable of policing Scientology. This is again all in the interest of keeping the public with a good opinion of Scientology, since



bad group process and bad auditing are worse than bad publicity and are the worst thing that can happen to the general public to general public communication line.

The best thing that can happen to it is good auditing, good public presentation, and a sincere approach on the subject of Scientology itself. Remember, we are interested in ALL treatment being beneficial, whether it is Scientology or not. For bad treatment in any line lowers the public opinion of all treatment.

In addressing persons professionally interested in the ministry, we have another interesting problem in public presentation. We should not engage in religious discussions. In the first place, as Scientologists, we are gnostics, which is to say that we know that we know. People in the ministry ordinarily suppose that knowingness and knowledge are elsewhere resident than in themselves. They believe in belief and substitute belief for wisdom. This makes Scientology no less a religion, but makes it a religion with an older tradition and puts it on an intellectual plane.

Religious philosophy, then, as represented by Scientology, would be opposed in such a discussion to religious practice. We are all-denominational rather than non-denominational, and so we should be perfectly willing to include in our ranks a Moslem, or a Taoist, as well as any Protestant or Catholic, while people of the ministry in Western civilization, unless they are evangelists, are usually dedicated severely to some faction which in itself is in violent argument with many other similar factions. Thus these people are ready to argue and are practiced in argument, and there are more interpretations of one line of scripture than there are sunbeams in a day. Beyond explaining one's all-denominational character, explaining that one holds the Bible as a holy work, one should recognize that the clergy of Western Protestant churches defines a minister or the standing of a church by these salient facts: Jesus Christ was the Savior of Mankind, Jesus Christ was the Son of God.

We in Scientology find no argument with this, and so in discussing Scientology with other ministry one should advance these two points somewhere in the conversation. Additionally, one should advance to the ministry exactly those things mentioned earlier as what we would like the general public to believe. Christ, if you care to study the New Testament, instructed his disciples to bring wisdom and good health to man, and promised mankind immortality, and said the Kingdom of Heaven was at hand, and the translators have not added that "at hand" possibly meant three feet back of your head. We could bring up these points but there is no reason to. You are not trying to educate other ministry. A friendly attitude toward other ministry in general, and fellow ministers in particular, is necessary.

The way to handle an individual minister of some other church is as follows: get him to tell you exactly what HE believes, get him to agree that religious freedom is desirable, then tell him to make sure that if that's the way he believes, he should keep on believing that, and that you would do anything to defend his right to believe that.

None of these people as individuals are antipathetic. They know a great deal about public presence, and can be respected for such knowledge. However, engaging in long discourses, or trying to educate a minister of some Protestant church or a priest of the Catholic faith into the tenets of Scientology is not desirable and is directly contrary to Article 10 of the Code of a Scientologist.

You will find you have many problems and people in common with other ministers. They're alive too. Also you will see a campaign to place only ministers in charge of the mind and mental healing. Talk about these things.

The Christian Church has been hurt by factionalism. We stand for peace and happiness. Therefore, let us carry it forward by example, not by unseemly discussions.

## 2. SCIENTOLOGISTS TO THE GENERAL PUBLIC

In the assemblage of congregations, and in addressing the general public at large, a Scientologist has a responsibility to give to the public, in the form of such congregations or meetings, information acceptable to them, which can be understood by them, and which will send them away with the impression that the Scientologist who addressed them knew definitely what he was talking about and that Scientology is an unconfused, clear-cut subject.



EXHIBIT B



7 October 1971

GC 188  
 To all  
 A/Gs  
 D/S  
 PROs  
 Sur 4s

RECEIVED

RE: BOOKS & ENTITIES WRITTEN ABOUT SCIENTOLOGY  
BT SPB

In the UK, the following legal actions have been done on entities/books which have been written about Scientology.

1. Satans Slaves - this was a book all about Charles Manson and hippie cults in California. In several places, throughout the book, Charles Manson was mentioned as a former Scientologist (untrue) and it was alleged that he got his start with Scientology etc.

The publishers of the book were sued for libel -- they did not serve a defence but instead asked for settlement. It was agreed that they would pay us £100 damages, together with the costs of the action. They also agreed to make an apology in open court and to discontinue publication and sales of the book.

2. A psychologist by the name of Dr. Christopher Evans was writing a book entitled "20th Century Cults". Legal started writing to him and his publishers and later his lawyers. No proceedings were started because the book had not been published. However, endless letters were sent on and fro over a period of about a year, during which time it was made clear to the publishers and their lawyers that if they published the book, they would have to fight a legal action, which would lose them money.

Finally the publishers lawyers wrote to us to say that there was no point in continuing the correspondence because the publishers had now decided not to publish the book. As of this date the book has not been published.

3. C. H. Rolph, (small time author and journalist), was commissioned by the NAMH U.K. to write a book on the subject of the NAMH conflict with Scientology, from their viewpoint. PFM got in touch with Rolph - Rolph came down to SH and there were a series of friendly letters. Rolph finally submitted his manuscript to PRO but, in spite of the friendly visits, it turned out that he was just a NAMH lack and had written an attack.

Legal wrote to him and his lawyers, and pointed out that publication would be a contempt of court (because of other legal actions which we have against the NAMH). The book has not been published.

4. "Scientology, what it is - what it does" by Rev. Morris Burrell was the first book published in the UK, solely on the subject of Scientology. Burrell had been in comm with PFO and a long series of letters had passed between them. But once again, the book when published turned out to be hostile. The front cover of the book contained the Scientology double triangle and our first thought was to begin legal proceedings for infringement of trademark. However, on reading the book, it was discovered that Burrell had mentioned a number of libel actions in which C of S was engaged and had commented upon them.

**EXHIBIT B**



Thus, being a contempt of court, legal moved the court for an order "that Morris C. Durrell do stand committed to Her Majesty's Prison at Brixton and that the publishers may be so committed for their several and respective contempts".

So, legal took them to Court, and the Judge found that the book was a contempt of court. So the book was drawn from publication without any copies having been sent to the public.

The latest book is by Cyril Vosper called "The Mindbenders", a stupid bit of natter. A preview of the book was sent out by the publishers, and PRO was alerted by a phone call from a TV station, who wanted a confrontation on TV with Cyril Vosper. This gave the G.O. 24 hours to stop the book, the TV confrontation and attendant bad publicity.

The book contained numerous quotes from Scientology books and policy letters etc and contained some data which Vosper had learned on the Solo Course. Legal proceedings were brought on the basis of breach of copyright and breach of confidential relationship (meaning putting in details of the Solo Course). As time was short, PRO did a superb job of getting data, PRO did a superb job of stalling TV, and legal went round to the Judge in the evening at his own home, to ask for an injunction. (An injunction is a Court order stopping a person from doing a particular act). In this case the injunction was to prevent the book from being sold or distributed. PRO went down to the TV station, to be ready to appear, in case the injunction was not obtained. The programme announcer had already made his introductions on Cyril and his book, when the phone rang in the studio, and our lawyer informed the producer that the injunction had been obtained. The announcer was forced to apologize to the viewers, and PRO handled the resultant tension after the programme had not gone on, with a drunken Vosper and furious producer.

The injunction was Ex parte (the other side was not present when it was obtained) and 3 weeks later legal went before the Court again for a contested hearing, to see whether the injunction should be continued or not. Legal won on both counts of copyright and breach of confidence. The other side now have 14 days in which to appeal.

The point of relating these actions is to indicate that the following countries have similar laws to Britain:

New Zealand

Australia

South Africa

Canada

There is no acceptable justification in these countries for no action being taken against the publishers and authors of entiaeta books. The G.O. has to act fast, effectively, and with imagination. The skill required is in

- 1) Having the brains to see a possible course of action, no matter how unlikely.
- 2) Having the necessary organisation to start that action immediately and bring it to a point of confrontation and decision. (The longer the delay, the greater the chance of failure).

EXHIBIT B



- 3) Legal U.K. seldom, if ever, assesses its chances of winning before commencing action. Its ability lies in getting the action into court fast, without regard to the chances of winning. No-one can accurately assess in advance the chances of winning or losing, as this is a matter of individual lawyers, individual judges, how many are breaks the judge has that day, the particular circumstance of the particular case which strikes the Judge and good fortune. Good fortune never strikes you in Court, unless you are in Court.
- 4) Legal U.K. has been in courts more often in the past 3 years than the rest of the Scientology world combined. They have won more cases and lost more cases than anywhere else. They lost cases they were sure they would win, and won cases they were sure they would lose. The losses did not hurt us, and the successes established an iron clad ethics presence, which has probably prevented more entheta than we will ever know about (B4 feedback lines confirm this).
- 5) Do not worry about whether you will win or lose, but direct all effort and concentration on the legal technicalities required to achieve a legal confrontation.
- 6) It is always technically possible - though sometimes difficult, to get into Court. The most difficult part is in forcing your legal team, especially outside lawyers, to get this done, in spite of their terror of losing. It requires intention, determination and forceful persistence to get this done. Not legal genius.

#### Re USA

In America, where Freedom of Speech includes freedom to malign with impunity, except for old ladies and crippled men, much more imagination is required. Because of the Constitution of America, and case law on libel, inclusive of recent Supreme Court decisions, it is impossible to prevent publication of libel. Attempts to prevent a book being published are called pre-publication censorship, and are extremely unpopular legally. However, where U.S. legal has been successful is prior to Court appearances and actual trial in effecting settlement.

The button used in effecting settlement is purely financial. In other words, it is more costly to continue the legal action than to settle in some fashion. Using this, legal U.S. usually moves for retraction of the libel and/or publication of a correction or Scientology viewpoint.

Therefore, it is imperative that legal US D-v-T his opponents and their lawyers with correspondence (a lawyer's letter costs approx \$50), phone calls (time costs), interrogatories, depositions and whatever else legal can mock up.

One of the bright spots of US legal is that even if you lose you don't pay your opponent for his lawyers fees. Therefore the cost of any legal action is small by comparison with Commonwealth Countries, where the loser pays everything.

N.B.: Any legal action on entheta publications needs the close co-ordination of PR, Legal and B4. One should carry forward without being afraid of being labelled litigious. We want the reputation that we use the laws of

**EXHIBIT B**



to uphold our legal and civil rights.

Legal terminals have only just been set up although the laws are different from Commonwealth and there are actions which can be taken if they are pushed and forced through.

Up to this point, the G.O. has been entirely swayed by our wog lawyers negative opinions but legal in terms should note the message in this Guardian order.

The message is that in combatting unethical articles and books, legal should be aggressive, fast, persistent and untiring.

Every skirmish should be treated like a major battle.

John Kember  
Guardian World Wide

EXHIBIT B



EXHIBIT C



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**FILED**  
JUN 22 1984  
Clerk of Court  
*Rosie M. Hart*  
BY ROSIE M. HART, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY OF CALIFORNIA,	)	No. C 420153
	)	
Plaintiff,	)	MEMORANDUM OF
	)	INTENDED DECISION
vs.	)	
	)	
GERALD ARMSTRONG,	)	
	)	
Defendant.	)	
<hr/>		
MARY SUE HUBBARD,	)	
	)	
Intervenor.	)	

In this matter heretofore taken under submission, the Court announces its intended decision as follows:

As to the tort causes of action, plaintiff, and plaintiff in intervention are to take nothing, and defendant is entitled to Judgment and costs.

As to the equitable actions, the court finds that neither plaintiff has clean hands, and that at least as of this time, are not entitled to the immediate return of any document or objects presently retained by the court clerk. All exhibits



1 received in evidence or marked for identification, unless  
2 specifically ordered sealed<sup>1</sup>, are matters of public record and  
3 shall be available for public inspection or use to the same  
4 extent that any such exhibit would be available in any other  
5 lawsuit. In other words they are to be treated henceforth no  
6 differently than similar exhibits in other cases in Superior  
7 Court. Furthermore, the "inventory list and description," of  
8 materials turned over by Armstrong's attorneys to the court,  
9 shall not be considered or deemed to be confidential, private,  
10 or under seal.

11 All other documents or objects presently in the possession  
12 of the clerk (not marked herein as court exhibits) shall be  
13 retained by the clerk, subject to the same orders as are  
14 presently in effect as to sealing and inspection, until such  
15 time as trial court proceedings are concluded as to the severed  
16 cross complaint. For the purposes of this Judgment, conclusion  
17 will occur when any motion for a new trial has been denied, or  
18 the time within such a motion must be brought has expired  
19 without such a motion being made. At that time, all documents  
20 neither received in evidence, nor marked for identification  
21 only, shall be released by the clerk to plaintiff's  
22 representatives. Notwithstanding this order, the parties may  
23  
24

25 1. Exhibits in evidence No. 500-40; JJJ; KKK; LLL; MMM;  
26 NNN; OOO; PPP; QQQ; RRR; and 500-QQQQ.

27 Exhibits for identification only No. JJJJ; Series  
28 500-DDDD, EEEE, FFFF, GGGG, HHHH, IIII, NNNN-1, OOOO, ZZZZ,  
CCCC, GGGGG, IIIII, KKKKK, LLLLL, OOOOO, PPPPP, QQQQQ, BBBBB,  
OOOOO, BBBBEE.



1 at any time by written stipulation filed with the clerk obtain  
2 release of any or all such unused materials.

3 Defendant and his counsel are free to speak or communicate  
4 upon any of Defendant Armstrong's recollections of his life as  
5 a Scientologist or the contents of any exhibit received in  
6 evidence or marked for identification and not specifically  
7 ordered sealed. As to all documents, and other materials held  
8 under seal by the clerk, counsel and the defendant shall remain  
9 subject to the same injunctions as presently exist, at least  
10 until the conclusion of the proceedings on the cross complaint.  
11 However, in any other legal proceedings in which defense  
12 counsel, or any of them, is of record, such counsel shall have  
13 the right to discuss exhibits under seal, or their contents, if  
14 such is reasonably necessary and incidental to the proper  
15 representation of his or her client.

16 Further, if any court of competent jurisdiction orders  
17 defendant or his attorney to testify concerning the fact of any  
18 such exhibit, document, object, or its contents, such testimony  
19 shall be given, and no violation of this order will occur.  
20 Likewise, defendant and his counsel may discuss the contents of  
21 any documents under seal or of any matters as to which this  
22 court has found to be privileged as between the parties hereto,  
23 with any duly constituted Governmental Law Enforcement Agency  
24 or submit any exhibits or declarations thereto concerning such  
25 document or materials, without violating any order of this  
26 court.

27 ///

28 ///

124

EXHIBIT C



1 This court will retain jurisdiction to enforce, modify,  
2 alter, or terminate any injunction included within the  
3 Judgment.

4 Counsel for defendant is ordered to prepare, serve, and  
5 file a Judgment on the Complaint and Complaint in Intervention,  
6 and Statement of Decision if timely and properly requested,  
7 consistent with the court's intended decision.

8  
9 Discussion

10 The court has found the facts essentially as set forth in  
11 defendant's trial brief, which as modified, is attached as an  
12 appendix to this memorandum. In addition the court finds that  
13 while working for L.R. Hubbard (hereinafter referred to as  
14 LRH), the defendant also had an informal employer-employee  
15 relationship with plaintiff Church, but had permission and  
16 authority from plaintiffs and LRH to provide Omar Garrison with  
17 every document or object that was made available to Mr. ~~Hubbard~~  
18 Garrison, and further, had permission from Omar Garrison to  
19 take and deliver to his attorneys the documents and materials  
20 which were subsequently delivered to them and thenceforth into  
21 the custody of the County Clerk.

22 Plaintiff Church has made out a prima facie case of  
23 conversion (as bailee of the materials), breach of fiduciary  
24 duty, and breach of confidence (as the former employer who  
25 provided confidential materials to its then employee for  
26 certain specific purposes, which the employee later used for  
27 other purposes to plaintiff's detriment). Plaintiff Mary Jane  
28 Hubbard has likewise made out a prima facie case of conversion



1 and invasion privacy (misuse by a person of private matters  
2 entrusted to him for certain specific purposes only).

3 While defendant has asserted various theories of defense,  
4 the basic thrust of his testimony is that he did what he did,  
5 because he believed that his life, physical and mental well  
6 being, as well as that of his wife were threatened because the  
7 organization was aware of what he knew about the life of LRF,  
8 the secret machinations and financial activities of the Church,  
9 and his dedication to the truth. He believed that the only way  
10 he could defend himself, physically as well as from harassing  
11 lawsuits, was to take from Omar Garrison those materials which  
12 would support and corroborate everything that he had been  
13 saying within the Church about LRF and the Church, or refute  
14 the allegations made against him in the April 22 Suppressive  
15 Person Declare. He believed that the only way he could be sure  
16 that the documents would remain secure for his future use was  
17 to send them to his attorneys, and that to protect himself, he  
18 had to go public so as to minimize the risk that LRF, the  
19 Church, or any of their agents would do him physical harm.

20 This conduct if reasonably believed in by defendant and  
21 engaged in by him in good faith, finds support as a defense to  
22 the plaintiff's charges in the Restatements of Agency, Torts,  
23 and case law.

24 Restatement of Agency, Second, provides:

25 "Section 395f: An agent is privileged to reveal  
26 information confidentially acquired by him in the course  
27 of his agency in the protection of a superior interest of  
28 himself or a third person.



1 "Section 418: An agent is privileged to protect  
2 interests of his own which are superior to those of the  
3 principal, even though he does so at the expense of the  
4 principal's interest or in disobedience to his orders."

5 Restatement of torts, Second, section 271:

6 "One is privileged to commit an act which would  
7 otherwise be a trespass to or a conversion of a chattel in  
8 the possession of another, for the purpose of defending  
9 himself or a third person against the other, under the  
10 same conditions which would afford a privilege to inflict  
11 harmful or offensive contact upon the other for the same  
12 purpose."

13 The Restatement of Torts, Second, section 652a, as well as  
14 case law, make it clear that not all invasions of privacy are  
15 unlawful or tortious. It is only when the invasion is  
16 unreasonable that it becomes actionable. Hence, the trier of  
17 fact must engage in a balancing test, weighing the nature and  
18 extent of the invasion, as against the purported justification  
19 therefore to determine whether in a given case, the particular  
20 invasion or intrusion was unreasonable.

21 In addition the defendant has asserted as a defense the  
22 principal involved in the case of Willig v. Gold, 75  
23 Cal.App.2d, 809, 814, which holds that an agent has a right or  
24 privilege to disclose his principal's dishonest acts to the  
25 party prejudicially affected by them.

26 Plaintiff Church has asserted and obviously has certain  
27 rights arising out of the First Amendment. Thus, the court  
28 cannot, and has not, inquired into or attempted to evaluate the



1 merits, accuracy, or truthfulness of Scientology or any of its  
2 precepts as a religion. First Amendment rights, however,  
3 cannot be utilized by the Church or its members, as a sword to  
4 preclude the defendant, whom the Church is suing, from  
5 defending himself. Therefore, the actual practices of the  
6 Church or its members, as it relates to the reasonableness of  
7 the defendant's conduct and his state of mind are relevant,  
8 admissible, and have been considered by the court.

9 ..As indicated by its factual findings, the court finds the  
10 testimony of Gerald and Jocelyn Armstrong, Laurel Sullivan,  
11 Nancy Dincalcis, Edward Walters, Omar Garrison, Kima Douglas,  
12 and Howard Schomer to be credible, extremely persuasive, and  
13 the defense of privilege or justification established and  
14 corroborated by this evidence. Obviously, there are some  
15 discrepancies or variations in recollections, but these are the  
16 normal problems which arise from lapse of time, or from  
17 different people viewing matters or events from different  
18 perspectives. In all critical and important matters, their  
19 testimony was precise, accurate, and rang true. The picture  
20 painted by these former dedicated Scientologists, all of whom  
21 were intimately involved with LRH, or Mary Jane Hubbard, or of  
22 the Scientology Organization, is on the one hand pathetic, and  
23 on the other, outrageous. Each of these persons literally gave  
24 years of his or her respective life in support of a man, LRH,  
25 and his ideas. Each has manifested a waste and loss or  
26 frustration which is incapable of description. Each has broken  
27 with the movement for a variety of reasons, but at the same  
28 time, each is, still bound by the knowledge that the Church has



1 in its posse. On his or her most inner thoughts and  
2 confessions, all recorded in "pre-clear (P.C.) folders" or  
3 other security files of the organization, and that the Church  
4 or its minions is fully capable of intimidation or other  
5 physical or psychological abuse if it suits their ends. The  
6 record is replete with evidence of such abuse.

7 In 1970 a police agency of the French Government conducted  
8 an investigation into Scientology and concluded, "this sect,  
9 under the pretext of 'freeing humans' is nothing in reality but  
10 a vast enterprise to extract the maximum amount of money from  
11 its adepts by (use of) pseudo-scientific theories, by (use of)  
12 'auditions' and 'stage settings' (lit. to create a theatrical  
13 scene') pushed to extremes (a machine to detect lies, its own  
14 particular phraseology . . .), to estrange adepts from their  
15 families and to exercise a kind of blackmail against persons  
16 who do not wish to continue with this sect."<sup>2</sup> From the  
17 evidence presented to this court in 1984, at the very least,  
18 similar conclusions can be drawn. In addition to violating and  
19 abusing its own members civil rights, the organization over the  
20 years with its "Fair Game" doctrine has harassed and abused  
21 those persons not in the Church whom it perceives as enemies.  
22 The organization clearly is schizophrenic and paranoid, and  
23 this bizarre combination seems to be a reflection of its  
24 founder LRH. The evidence portrays a man who has been  
25 virtually a pathological liar when it comes to his history,  
26  
27

28 2. Exhibit 500-HHHHH.



1 background, . . . achievements. The writ. gs and documents in  
2 evidence additionally reflect his egoism, greed, avarice, lust  
3 for power, and vindictiveness and aggressiveness against  
4 persons perceived by him to be disloyal or hostile. At the  
5 same time it appears that he is charismatic and highly capable  
6 of motivating, organizing, controlling, manipulating, and  
7 inspiring his adherents. He has been referred to during the  
8 trial as a "genius," a "revered person," a man who was "viewed  
9 by his followers in awe." Obviously, he is and has been a very  
10 complex person, and that complexity is further reflected in his  
11 alter ego, the Church of Scientology. Notwithstanding  
12 protestations to the contrary, this court is satisfied that LRH  
13 runs the Church in all ways through the Sea Organization, his  
14 role of Commodore, and the Commodore's Messengers.<sup>3</sup> He has, of  
15 course, chosen to go into "seclusion," but he maintains contact  
16 and control through the top messengers. Seclusion has its  
17 light and dark side too. It adds to his mystique, and yet  
18 shields him from accountability and subpoena or service of  
19 summons.

20 LRH's wife, Mary Sue Hubbard is also a plaintiff herein.  
21 On the one hand she certainly appeared to be a pathetic  
22 individual. She was forced from her post as Controller,  
23 convicted and imprisoned as a felon, and deserted by her  
24 husband. On the other hand her credibility leaves much to be  
25 desired. She struck the familiar pose of not seeing, hearing,  
26

27 3. See Exhibit K: Flag Order 3729 - 15 September 1978  
28 "Commodore's Messengers."



1 or knowing a evil. Yet she was the head of the Guardian  
2 Office for years and among other things, authored the infamous  
3 order "GO 121669"<sup>4</sup> which directed culling of supposedly  
4 confidential P.C. files/folders for purposes of internal  
5 security. In her testimony she expressed the feeling that  
6 defendant by delivering the documents, writings, letters to his  
7 attorneys, subjected her to mental rape. The evidence is clear  
8 and the court finds that defendant and Omar Garrison had  
9 permission to utilize these documents for the purpose of  
10 Garrison's proposed biography. The only other persons who were  
11 shown any of the documents were defendant's attorneys, the  
12 Douglasses, the Dincalcis, and apparently some documents  
13 specifically affecting LRH's son "Nibs," were shown to "Nibs."  
14 The Douglasses and Dincalcises were disaffected Scientologists  
15 who had a concern for their own safety and mental security, and  
16 were much in the same situation as defendant. They had not  
17 been declared as suppressive, but Scientology had their P.C.  
18 folders, as well as other confessions, and they were extremely  
19 apprehensive. They did not see very many of the documents, and  
20 it is not entirely clear which they saw. At any rate Mary Sue  
21 Hubbard did not appear to be so much distressed by this fact,  
22 as by the fact that Armstrong had given the documents to  
23 Michael Flynn, whom the Church considered its foremost  
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28 4. Exhibit AAA.



1 lawyer-enemy." However, just as the plaintiffs have First  
2 Amendment rights, the defendant has a Constitutional right to  
3 an attorney of his own choosing. In legal contemplation the  
4 fact that defendant selected Mr. Flynn rather than some other  
5 lawyer cannot by itself be tortious. In determining whether  
6 the defendant unreasonably invaded Mrs. Hubbard's privacy, the  
7 court is satisfied the invasion was slight, and the reasons and  
8 justification for defendant's conduct manifest. Defendant was  
9 told by Scientology to get an attorney. He was declared an  
10 enemy by the Church. He believed, reasonably, that he was  
11 subject to "fair game." The only way he could defend himself,  
12 his integrity, and his wife was to take that which was  
13 available to him and place it in a safe harbor, to wit, his  
14 lawyer's custody. He may have engaged in overkill, in the  
15 sense that he took voluminous materials, some of which appear  
16 only marginally relevant to his defense. But he was not a  
17 lawyer and cannot be held to that precise standard of judgment.  
18 Further, at the time that he was accumulating the material, he  
19 was terrified and undergoing severe emotional turmoil. The  
20 court is satisfied that he did not unreasonably intrude upon  
21 Mrs. Hubbard's privacy under the circumstances by in effect  
22 simply making his knowledge that of his attorneys. It is, of  
23 course, rather ironic that the person who authorized G.O. order  
24 121669 should complain about an invasion of privacy. The

25  
26 5. "No, I think my emotional distress and upset is the  
27 fact that someone took papers and materials without my  
28 authorization and then gave them to your Mr. Flynn."  
Reporter's Transcript, p. 1006.



1 practice of cuuing supposedly confidential "P.C. folders or  
2 files" to obtain information for purposes of intimidation  
3 and/or harassment is repugnant and outrageous. The Guardian's  
4 Office, which plaintiff headed, was no respector of anyone's  
5 civil rights, particularly that of privacy. Plaintiff Mary Sue  
6 Hubbard's cause of action for conversion must fail for the same  
7 reason as plaintiff Church. The documents were all together in  
8 Omar Garrison's possession. There was no rational way the  
9 defendant could make any distinction.

10 Insofar as the return of documents is concerned, matters  
11 which are still under seal may have evidentiary value in the  
12 trial of the cross complaint or in other third party  
13 litigation. By the time that proceedings on the cross  
14 complaint are concluded, the court's present feeling is that  
15 those documents or objects not used by that time should be  
16 returned to plaintiff. However, the court will reserve  
17 jurisdiction to reconsider that should circumstances warrant.

18 Dated: June 20, 1984

19  
20 *Paul G. Breckenridge, Jr.*  
21 PAUL G. BRECKENRIDGE, JR.  
22 Judge of the Superior Court

23  
24 THE DOCUMENT TO WHICH THIS CERTIFICATE IS AT-  
25 TACHED IS A FULL TRUE AND CORRECT COPY OF THE  
26 ORIGINAL ON FILE AND OF RECORD IN MY OFFICE.  
27  
28 ATTEST SEP 11 1984 19  
JOHN J. CORCORAN, County Clerk and Clerk of the  
Superior Court of California,  
County of Los Angeles  
BY S. Hurst DEPUTY  
S. HURST







93-70281

RECEIVED  
GATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

JUN 29 1993

1 ORIGINAL

DECLARATION OF HON. JAMES M. IDEMAN

FILED 6/24/93  
BOOKETED 6/25/93  
DATE

2  
3 **BOOKETED**

I, James M. Ideman, declare as follows:

4 1. Portions of this petition will become moot because  
5 I have decided to recuse myself from this case. Plaintiff has  
6 recently begun to harass my former law clerk who assisted me  
7 on this case, even though she now lives in another city and  
8 has other legal employment. This action, in combination with  
9 other misconduct by counsel over the years has caused me to  
10 reassess my state of mind with respect to the propriety of my  
11 continuing to preside over the matter. I have concluded that  
12 I should not. I have delayed the effective date of my  
13 recusal, however, so that I could respond on behalf of my  
14 court to the allegations in the petition.

15 2. I should say at the outset that this case should  
16 soon be concluded in the District Court and thus available for  
17 appellate review. I am confident that such a review will  
18 reveal that the plaintiff's claims raised in this petition are  
19 groundless. I would strongly recommend that any definitive  
20 appellate action be deferred pending a thorough review on  
21 appeal and that years of work not be wiped out by granting  
22 petitioner's extraordinary writ.

23 3. The past 8 years have consisted mainly of a  
24 prolonged, and ultimately unsuccessful, attempt to persuade or  
25 compel the plaintiff to comply with lawful discovery. These  
26 efforts have been fiercely resisted by plaintiffs. They have  
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utilized every device that we on the District Court have ever heard of to avoid such compliance, and some that are new to us.

4. This noncompliance has consisted of evasions, misrepresentations, broken promises and lies, but ultimately with refusal. As part of this scheme to not comply, the plaintiffs have undertaken a massive campaign of filing every conceivable motion (and some inconceivable) to disguise the true issue in these pretrial proceedings. Apparently viewing litigation as war, plaintiffs by this tactic have had the effect of massively increasing the costs to the other parties, and, for a while, to the Court. The appointment of the Special Master 4 years ago has considerably relieved the burden to this Court. The scope of plaintiff's efforts have to be seen to be believed. (See, Exhibit "A", photo of clerk with filings, and Exhibit "B", copy of clerk's docket with 81 pages and 1,737 filings.)

5. Yet, it is almost all puffery -- motions without merit or substance. Notwithstanding this, I have carefully monitored the Special Master's handling of these motions. I saw no need to try to improve on the Special Master's writings if I agreed with the reasons and the results. However, with respect to the major ruling that I have made during these proceedings, the dismissal of the plaintiff's claims, the following occurred:



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6. The Special Master, after years of efforts to compel compliance with discovery, purported to order a dismissal of plaintiff's claims. Although the action was probably long overdue, the Special Master did not have the authority to make such a dispositive order. In reviewing his order, as I did with all of his actions, I saw what he had done and did not approve it. I treated the Special Master's "order" as a recommendation and gave notice to the parties that they could have a hearing and invited briefs. Only after considering fully the briefs of the parties did I give approval to the dismissal. It is true that I adopted the language chosen by the Special Master, but that was because I fully agreed with his reasoning and saw no need to write further.

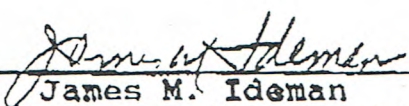
7. Plaintiffs are unhappy with Judge Kolts and me for insisting that they comply fully with discovery or forfeit their case. For this reason they wish to have our work set aside and begin anew with another judge who may, they hope, permit them to litigate their claims without complying with discovery, or, perhaps, to further punish the other parties with more years of expensive litigation. This they should not be permitted to do, especially by means of the limited review possible on an extraordinary writ.

8. I respectfully recommend that the petitioner's claims that are not mooted by my withdrawal from the case be denied without prejudice to review of same upon appeal.



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I declare under penalty of perjury that the foregoing is true and correct. Executed this 17th day of June, 1993 at Los Angeles, California.

  
\_\_\_\_\_  
James M. Ideman  
United States District Judge







93-70281

RECEIVED  
BATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

JUN 29 1993

FILED 6/24/93  
DOCKETED 6/25/93  
DATE

1 ORIGINAL

DECLARATION OF HON. JAMES M. IDEMAN

2 DOCKETED

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2. I should say at the outset that this case should soon be concluded in the District Court and thus available for appellate review. I am confident that such a review will reveal that the plaintiff's claims raised in this petition are groundless. I would strongly recommend that any definitive appellate action be deferred pending a thorough review on appeal and that years of work not be wiped out by granting petitioner's extraordinary writ.

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1           6.     The Special Master, after years of efforts to compel  
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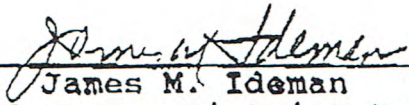
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\_\_\_\_\_  
James M. Ideman  
United States District Judge







FORD GREENE  
LAWYER

HUB LAW OFFICES  
711 SIR FRANCIS DRAKE BOULEVARD  
SAN ANSELMO, CALIFORNIA 94960-1949  
(415) 258-0360

LICENSE No 107501  
FACSIMILE (415) 456-5318

July 23, 1993

Laurie J. Bartilson  
BOWLES & MOXON  
6255 Sunset Boulevard, Suite 2000  
Los Angeles, California 90028

By Telecopier  
213-953-3351

RE: *Church of Scientology International v. Armstrong*  
Los Angeles Superior Court  
Case No. BC 052 395

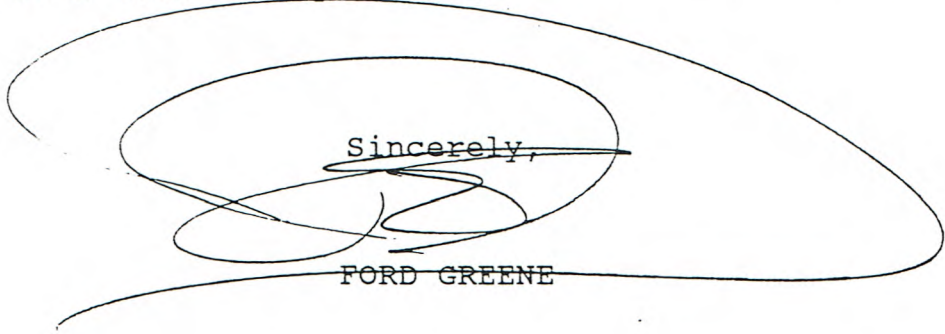
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Dear Ms. Bartilson:

In light of the fact that the injunction you claim my client to have violated does not prohibit Mr. Armstrong from providing declarations to private litigant defendants, and in light of the fact that your organization sued Mr. Wollersheim and Mr. Armstrong's perceived injunctive transgression is to have executed a declaration in support of defendant Wollersheim's motion to dismiss your suppressive litigation against him, any OSC that you seek on these grounds is without merit and frivolous.

We will oppose your meritless OSC and seek sanctions for having to again deal with your spurious efforts at using litigation as a tool of repression.

Sincerely,



FORD GREENE

:acg

cc: Paul Morantz (By Telecopier)  
Andrew H. Wilson (By Telecopier)







FORD GREENE  
LAWYER

HUB LAW OFFICES  
711 SIR FRANCIS DRAKE BOULEVARD  
SAN ANSELMO, CALIFORNIA 94960-1949  
(415) 258-0360

LICENSE No. 107601  
FACSIMILE (415) 456-5318

July 23, 1993  
1207 PDT

Laurie J. Bartilson, Esquire  
Bowles & Moxon  
6255 Sunset Boulevard  
Suite 2000  
Los Angeles, CA 90028

BY FAX (213)953-3351

Dear Ms. Bartilson:

I have been directed by Mr. Greene to ask you to fax to this office immediately all your papers relating to your attempt to have me held in contempt for providing a declaration to Lawrence Wollersheim.

Thank you for your attention to this matter.

Yours sincerely,

A handwritten signature in black ink, appearing to read "G. Armstrong", with a large, sweeping flourish extending to the right.

Gerald Armstrong  
for Ford Greene, Esquire

:ga







BOWLES & MOXON  
ATTORNEYS AT LAW  
6255 SUNSET BOULEVARD  
SUITE 2000  
HOLLYWOOD, CALIFORNIA 90028

TIMOTHY BOWLES \*  
KENDRICK L. MOXON ±  
LAURIE J. BARTILSON †  
HELENA K. KOBRIN ‡

(213) 953-3360  
TELECOPIER (213) 953-3351

PETER M. JACOBS  
RANDALL A. SPENCER §  
ROBERT A. WIENER #  
LESLIE T.W. SOASH  
AVA MARIE SANDLIN

\* ALSO ADMITTED IN OREGON  
± ALSO ADMITTED IN THE DISTRICT OF COLUMBIA  
† ALSO ADMITTED IN MASSACHUSETTS  
‡ ALSO ADMITTED IN FLORIDA  
§ ALSO ADMITTED IN ILLINOIS  
# ALSO ADMITTED IN OKLAHOMA

RECEIVED

JUL 26 1993

HUB LAW OFFICES

July 23, 1993

OF COUNSEL  
JEANNE M. GAVIGAN  
MARCELLO M. DI MAURO  
KAREN L. BROWN  
KAREN D. HOLLY

BY TELEFAX AND U.S. MAIL

Ford Greene  
711 Sir Francis Drake Blvd.  
San Anselmo, California 94960-1949

Re: Church of Scientology International v. Gerald Armstrong

Dear Mr. Greene:

I am in receipt of the attached letter from your client, Gerald Armstrong.

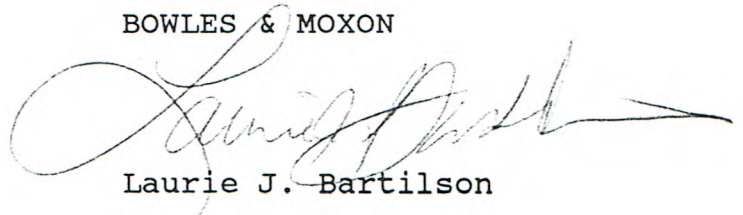
In light of the unfounded accusations which you have leveled at me in the past, I am sure you can appreciate that I am unwilling to engage in any direct communication with your client, absent your written authorization.

As soon as the order to show cause papers are completed, I will fax them to your office, as has always been our custom. They are as yet incomplete.

Please advise whether or not you intend to oppose the application.

Sincerely,

BOWLES & MOXON



Laurie J. Bartilson

LJB:mfh  
Enc.

cc: Paul Morantz BY TELEFAX AND U.S. MAIL  
cc: Andrew H. Wilson BY TELEFAX AND U.S. MAIL







**BOWLES & MOXON**  
ATTORNEYS AT LAW  
6255 SUNSET BOULEVARD  
SUITE 2000  
HOLLYWOOD, CALIFORNIA 90028

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BOWLES & MOXON

  
Laurie J. Bartilson

LJB:mfh  
Enc.

cc: Paul Morantz BY TELEFAX AND U.S. MAIL  
cc: Andrew H. Wilson BY TELEFAX AND U.S. MAIL







FORD GREENE  
LAWYER

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SAN ANSELMO, CALIFORNIA 94960-1949  
(415) 258-0360

LICENSE No. 107601  
FACSIMILE (415) 456-5318

July 30, 1993

Laurie J. Bartilson  
Office of Special Affairs, Legal  
BOWLES & MOXON  
6255 Sunset Boulevard, Suite 2000  
Los Angeles, California 90028

RE: *Church of Scientology International v. Armstrong*  
Los Angeles Superior Court  
Case No. BC 052 395

---

Dear Ms. Bartilson:

Further to my letter to you dated July 23, 1993, I call your attention to the position that you and your organization took in the respondent's brief in the appeal of the Sohigian injunction presently pending before the Second District Court of Appeal. Specifically, your brief states:

The Superior Court was careful to delineate, in terms as precise as permitted by the English language, what Armstrong may do or not do under the terms of the injunction. Armstrong may not voluntarily assist a non-governmental party in litigating or arbitrating a claim against [scientology], or in preparing to litigate or arbitrate such claim. He may assist such a party in other respects, i.e., in respects other than "regarding such claim." Likewise, he may accept subpoenas and testify, and he is under no obligation to engage in "physical resistance, obstructive tactics, or flight" to avoid service of subpoenas. He may engage in employment as a paralegal, so long as he does not assist with respect to actual or potential litigation or arbitration claims against [scientology]. And, of course, he may report criminal activity to the appropriate authorities.

(Respondent's Brief, at pp. 33-34: copy enclosed for ease of your review.)



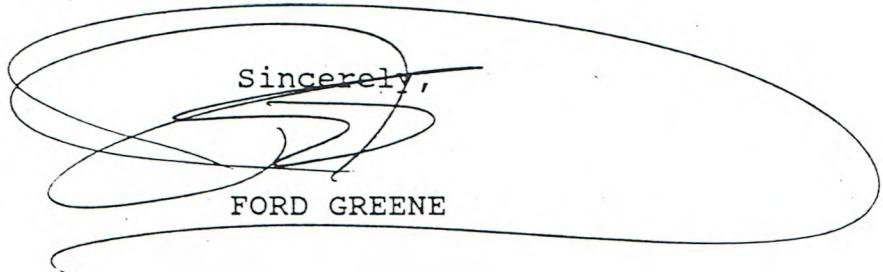
Laurie J. Bartilson  
Office of Special Affairs, Legal  
July 30, 1993  
Page 2.

---

As you know, your organization has sued Mr. Wollersheim as a defendant, and it is in that case that Mr. Armstrong filed a declaration. Thus, the declaration is outside the scope of the language that you have submitted to the court of appeal as defining the scope of the agreement. Now, in the trial court, you are taking the opposition position: that somehow the injunction prohibits Armstrong from assisting people that you sue. This is unethical, unfair, wrong, and the proper subject of an estoppel. It must be the result of an order by David Miscavige rather than your own legal judgment that is talking here. Again, please be on notice that we will seek sanctions should you continue to prosecute your ludicrous and legally abusive action for contempt. Therefore, please withdraw this particular enforcement action.

Also, I call to your attention the fact that you misrepresented to the court that neither Armstrong nor I indicated whether or not we would oppose your application for the OSC re Contempt. My May July 23, 1993, letter quite clearly stated our position to the contrary.

Sincerely,



FORD GREENE

:acg  
Encl.

cc: Paul Morantz (with enclosure)  
Andrew H. Wilson (with enclosure)







---

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT, DIVISION FOUR

Civ. No. B 069450  
(Super. Ct. No. BC 052395)

---

CHURCH OF SCIENTOLOGY INTERNATIONAL,

Plaintiff-Respondent,

-vs-

GERALD ARMSTRONG,

Defendant-Appellant.

RECEIVED

APR 23 1993

HUB LAW OFFICES

---

On Appeal From Superior Court Of The State of California  
County of Los Angeles  
The Honorable Ronald M. Sohigian

---

BRIEF FOR RESPONDENT

---

KAREN D. HOLLY  
Bowles & Moxon  
6255 Sunset Boulevard  
Suite 2000  
Hollywood, CA 90028  
(213) 661-4030

ANDREW H. WILSON  
Wilson, Ryan & Campilongo  
235 Montgomery Street  
Suite 450  
San Francisco, CA 94104  
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ERIC M. LIEBERMAN  
Rabinowitz, Boudin, Standard, Krinsky &  
Lieberman, P.C.  
740 Broadway, 5th Floor  
New York, NY 10003  
(212) 254-1111

MICHAEL LEE HERTZBERG  
740 Broadway, 5th Floor  
New York, NY 10003  
(212) 982-9870

Attorneys for Respondent



in their deed, which prohibited the dispensing of petroleum products on their property.

*Boughton, supra*, 231 Cal. App. 2d at 190, 41 Cal.Rptr. at 714-715.

In rejecting this argument, the *Boughton* court stated:

. . . [W]hile the cases are uniform in refusing to enforce a contract wherein one is restrained from pursuing an *entire* business, trade or profession, as falling within the ambit of section 16600 [citations omitted], where one is barred from pursuing only a *small or limited part* of business, trade or profession, the contract has been upheld as valid.

*Id.* at 192, 716 (emphasis added.)

Applying this principle, the *Boughton* court concluded that, because the plaintiffs were not prohibited from carrying on the lawful business of selling petroleum products or operating a service station but were barred from doing so only on a particular piece of property, the covenant was *not* an unlawful restraint on trade and thus was valid.

*Id.* at 716. *See, also, King v. Gerold* (1952) 240 P.2d 710.

The holdings of *Boughton* and *King* are controlling here. The preliminary injunction prohibits Armstrong in effect from pursuing only a limited portion of the trade or business of being a paralegal, *i.e.*, working on cases that involve the Church.

### III. The Terms of the Injunction are Clear and Enforceable

The Superior Court was careful to delineate, in terms as precise as permitted by the English language, what Armstrong may do or not do under the terms of the injunction. Armstrong may not voluntarily assist a non-governmental party in litigating or arbitrating a claim against the Church, or in preparing to litigate or arbitrate such a claim. He may assist such a party in other respects, *i.e.*, in respects other than "regarding such claim." Likewise, he may accept subpoenas and testify, and he is under no obligation to engage in "physical resistance, obstructive tactics, or flight" to avoid service of subpoenas.



He may engage in employment as a paralegal, so long as he does not assist with respect to actual or potential litigation or arbitration claims against the Church. And, of course, he may report criminal activity to the appropriate authorities.

Armstrong nevertheless claims that the injunction is "fraught with uncertainty", and conjures up a variety of marginal and insignificant acts which he claims may or may not be covered by the injunction.

Armstrong raises the specter of problems that he himself has generated by his own violation of the settlement agreement. After receiving nearly a million dollars from the Church in 1986, he decided to start a new career as a paralegal and work for two of the small handful of attorneys who regularly litigate against the Church. Thus, Armstrong accepted employment with Joseph Yanny and Ford Greene precisely to assist in litigation against the Church, in direct violation of the settlement agreement. All of the supposedly perplexing conundrums that Armstrong faces, *e.g.* whether "licking a stamp" or "answering the phone" violates the injunction, are questions that would not need to be asked had Armstrong not decided to seek "employment" in the very matters from which he had agreed to abstain. All of Armstrong's alleged complexities and vaguenesses arise from the simple fact that Armstrong has breached the settlement agreement.<sup>17/</sup>

---

<sup>17/</sup> Under Armstrong's reasoning, if Armstrong had signed an agreement prohibiting him from coming within 100 yards of his former spouse, and then moved into the apartment next door to her, the court would be precluded from enforcing the injunction because it would require "protracted supervision" from the court. Similarly Armstrong would claim impermissible vagueness on the grounds that he was unable to discern exactly when his former spouse was 100 yards away from him due since the intervening walls of the apartment blocked his view. Obviously, the difficulties stem from Armstrong's actions, not the court's.







1 Andrew H. Wilson  
WILSON, RYAN & CAMPILONGO  
2 235 Montgomery Street  
Suite 450  
3 San Francisco, California 94104  
(415) 391-3900

4 Laurie J. Bartilson  
5 BOWLES & MOXON  
6255 Sunset Boulevard  
6 Suite 2000  
Hollywood, California 90028  
7 (213) 953-3360

8 Attorneys for Plaintiff  
9 CHURCH OF SCIENTOLOGY INTERNATIONAL

RECEIVED

AUG 09 1993

HUB LAW OFFICES

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 FOR THE COUNTY OF LOS ANGELES

12 CHURCH OF SCIENTOLOGY ) CASE NO. BC 084642  
13 INTERNATIONAL, a California not- ) and  
for-profit religious corporation, ) CASE NO. BC 052395  
14 )  
Plaintiff, ) NOTICE OF RELATED CASE  
15 vs. )  
 ) [LASC NO. 1103.6.1]  
 )  
16 GERALD ARMSTRONG; THE GERALD )  
ARMSTRONG CORPORATION, a )  
17 California corporation; DOES 1 )  
through 25, inclusive, )  
18 )  
Defendants. )

19 \_\_\_\_\_ )  
20 CHURCH OF SCIENTOLOGY )  
INTERNATIONAL, a California not- )  
21 for-profit religious corporation, )  
 )  
22 Plaintiff, )  
vs. )  
23 )  
24 GERALD ARMSTRONG; THE GERALD )  
ARMSTRONG CORPORATION, a )  
California for-profit corporation; )  
25 DOES 2 through 25, inclusive, )  
 )  
26 Defendants. )

27 \_\_\_\_\_ )  
AND RELATED CROSS-COMPLAINT )  
28 \_\_\_\_\_ )

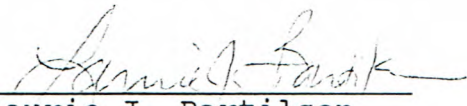


1 PLEASE TAKE NOTICE that the recently-filed case entitled  
2 Church of Scientology International v. Gerald Armstrong, et al.,  
3 LASC No. BC 084642 is related to the case of Church of  
4 Scientology International v. Gerald Armstrong, et al., LASC No.  
5 BC 052395, currently pending in Department 32 of this Court. The  
6 cases deal with different breaches by Armstrong of the same  
7 contract, and consequently raise many substantially identical  
8 questions of law and fact.

9 DATED: August 6, 1993

BOWLES & MOXON

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By:   
Laurie J. Bartilson

Andrew H. Wilson  
WILSON, RYAN & CAMPILONGO

Attorneys for Plaintiff  
CHURCH OF SCIENTOLOGY  
INTERNATIONAL

H:\ARMSTRON\NCTICE.REL



PROOF OF SERVICE

STATE OF CALIFORNIA        )  
                                  )    ss.  
COUNTY OF LOS ANGELES    )

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On August 6, 1993, I served the foregoing document NOTICE OF RELATED CASE on interested parties described as in this action,

by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

by placing  the original  a true copy thereof in sealed envelopes addressed as follows:

Paul Morantz, Esq.                                **BY MAIL**  
P.O. Box 511  
Pacific Palisades, CA 90272

Ford Greene, Esq.                                 **BY MAIL**  
HUB LAW OFFICES  
711 Sir Francis Drake Blvd.  
San Anselmo, CA 94960

Gerry Armstrong                                 **BY MAIL**  
711 Sir Francis Drake Blvd.  
San Anselmo, CA 94960

BY MAIL

\*I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is



presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on August 6, 1993 at Los Angeles, California.

[ ] **\*\* (BY PERSONAL SERVICE)** I delivered such envelope by hand to the offices of the addressee.

Executed on \_\_\_\_\_, at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

---

Type or Print Name	Signature
--------------------	-----------

\* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

\*\* (For personal service signature must be that of messenger)







1 HUB LAW OFFICES  
Ford Greene, Esquire  
2 California State Bar No. 107601  
711 Sir Francis Drake Boulevard  
3 San Anselmo, California 94960-1949  
Telephone: (415) 258-0360

4 PAUL MORANTZ, ESQ.  
5 P.O. Box 545  
Pacific Palisades, CA 90272  
6 (310) 459-4745

7 Attorney for Defendant  
GERALD ARMSTRONG

ORIGINAL FILED

JUL 26 1993

LOS ANGELES  
SUPERIOR COURT  
RECEIVED

JUL 29 1993

HUB LAW OFFICES

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 IN AND FOR THE COUNTY OF LOS ANGELES

13 CHURCH OF SCIENTOLOGY ) No. BC 052395  
14 INTERNATIONAL, a California )  
not-for-profit religious ) DEFENDANT ARMSTRONG'S  
15 corporation; ) MEMORANDUM IN OPPOSITION TO  
APPLICATION FOR AN ORDER TO  
16 Plaintiffs, ) SHOW CAUSE RE CONTEMPT;  
17 vs. ) REQUEST FOR MONETARY SANCTIONS  
Date: July 26, 1993  
18 GERALD ARMSTRONG; DOES 1 ) Time: 8:30 a.m.  
through 25, inclusive, ) Dept: 86  
19 Defendants. )  
Trial Date: Stayed  
20 ) Discovery Cut Off: Stayed  
Motion Cut Off: Stayed  
21

22 I. INTRODUCTION

23  
24 In a familiar fit of pique Scientology asks this Court to  
25 conclude that Gerald Armstrong has violated an order of this  
26 Court. The request is childish and spurious because it has no  
27 basis in either law or reality. Scientology claims that Armstrong  
28

COPY



1 has violated an aspect of a preliminary injunction issued by the  
2 Honorable Ronald M. Sohigian on May 28, 1992. What Scientology  
3 claims Armstrong to have transgressed and violated, however, does  
4 not exist. What is before the Court is merely another  
5 manifestation of Scientology's compulsion to use the legal system  
6 as a club to beat its critics, one more time beating Gerald  
7 Armstrong, into the dirt. The Application for the Order to Show  
8 Cause must be denied because not only does it constitute harassive  
9 and abusive litigation tactics but it is a waste of this Court's  
10 time and resources, and the taxpayers' money.

11 Due to the application's complete lack of merit, and due to  
12 the fact that Church of Scientology International and its counsel  
13 Laurie J. Bartilson and the law firm Bowles and Moxon have  
14 disregarded Armstrong's request to desist from prosecuting this  
15 meritless exercise, Gerald Armstrong seeks monetary sanctions in  
16 the amount of \$1,569.75 against Church of Scientology  
17 International and its counsel Laurie J. Bartilson and the law firm  
18 Bowles and Moxon.

19  
20 **II. STATEMENT OF FACTS**

21  
22 **A. The Factual Basis For The Alleged Violation**

23  
24 On July 23, 1993, counsel for Armstrong received a telecopied  
25 letter from scientologist attorney Laurie Bartilson which stated  
26 in its entirety the following:  
27  
28



1 Please take notice that on Monday, July 26, 1993,  
2 at 8:30 a.m., plaintiff Church of Scientology  
3 International will appear in Department 86 of the Los  
4 Angeles Superior Court, and request that an order issue,  
5 pursuant to Code of Civil Procedure Section 1212,  
6 directing Gerald Armstrong to show cause why he should  
7 not be held in contempt of court and sanctioned.  
8 Plaintiff intends to base its request on the  
9 declaration, dated June 4, 1993, which Armstrong  
10 provided to Larry Wollersheim and his attorneys in  
11 direct contravention of the injunction issued in this  
12 case by Judge Sohigian on May 28, 1992.

13 (Declaration of Ford Greene ["Greene Decl."], Ex. A.)

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**B. The Preliminary Injunction**

On May 28, 1992 Judge Sohigian issued the following preliminary injunction:

Defendant Gerald Armstrong, his agents, and persons acting in concert or conspiracy with him (excluding attorneys at law who are not said defendant's agents or retained by him) are restrained and enjoined during the pendency of this suit pending further order of court from doing directly or indirectly any of the following:

Voluntarily assisting any person (not a governmental organ or entity) intending to make, intending to press, intending to arbitrate, or intending to litigate a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986 regarding such claim or regarding pressing, arbitrating, or litigating it.

Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating a claim against the persons referred to in sec 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986.

(Greene Decl., Ex. B.)

It is clearly discernable that, whatever infirmities intrinsic to the injunction there are, Armstrong is prohibited from "voluntarily assisting" persons with claims "against" Scientology. In other words, Armstrong is prohibited from



1 assisting private litigant plaintiffs in litigation in which  
2 Scientology is a party. The injunction is completely silent,  
3 however, as to Armstrong's voluntarily assisting persons against  
4 whom Scientology is litigating any claim of its own. Such  
5 injunctive silence, however, is explicit in its denial of  
6 Scientology's application for injunctive relief as to all other  
7 aspects of the subject settlement agreement Scientology sought to  
8 have enforced, which includes defendants adverse to Scientology.  
9 Thus, the injunction does not in any way prohibit Armstrong from  
10 assisting private litigant defendants.

11

12 C. Wollersheim Is A Private Litigant Defendant

13

14 On or about February 16, 1993, in LASC No. BC 074815,  
15 (hereinafter "Wollersheim II") Scientology sued Larry Wollersheim  
16 in an effort to eradicate the jury verdict in Wollersheim v.  
17 Church of Scientology as reported in 1989 at 212 Cal.App.3d 872.  
18 (hereinafter "Wollersheim I".) <sup>1/</sup>

19

20 <sup>1</sup> In Wollersheim I, the Second District characterized  
21 Scientology as the modern day equivalent to the Christian  
22 Inquisition because Scientology seeks to "neutralize" its critics  
23 or "heretics" such as Wollersheim and Armstrong. It stated:

22 "To illustrate, centuries ago the inquisition was one of the  
23 core religious practices of the Christian religion in Europe.  
24 This religious practice involved torture and execution of  
25 heretics and miscreants. [Citation.] Yet should any church  
26 seek to resurrect the inquisition in this country under a  
27 claim of free religious expression, can anyone doubt the  
28 constitutional authority of an American government to halt  
the torture and executions? And can anyone seriously question  
the right of the victims of our hypothetical modern day  
inquisition to sue their tormentors for any injuries -  
physical or psychological - they sustained?

28

We do not mean to suggest Scientology's retributive  
(continued...)



1 The gravamen of the complaint in Wollersheim II is that the  
2 Judge Ronald Swearinger, the trial judge in Wollersheim I, was  
3 biased against Scientology because he believed, during the trial  
4 of Wollersheim I, that Scientology had killed his dog and  
5 otherwise acted against him. (Greene Decl., Ex. C - Complaint in  
6 Wollersheim II.)

7 For the purposes of the instant application, the only salient  
8 point is that in Wollersheim II, Scientology sued Wollersheim.  
9 Therefore, any assistance provided by Armstrong to Wollersheim in  
10 Wollersheim II is outside the scope of the Sohigian Injunction.

11  
12 **D. Armstrong's Assistance In Wollersheim II**

13  
14 On June 21, 1993, Wollersheim filed his Amended Memorandum of  
15 Points and Authorities in Support of Defendant's Special Motion to  
16 Strike authorized by Code of Civil Procedure section 425.16. <sup>2/</sup>

17  
18 <sup>1</sup>(...continued)

19 program . . . represented a full-scale modern day  
20 'inquisition.' Nevertheless, there are some parallels in  
21 purpose and effect. 'Fair game' like the 'inquisition'  
22 targeted 'heretics' who threatened the dogma and  
23 institutional integrity of the mother church. Once 'proven'  
24 to be a 'heretic,' an individual was to be neutralized. In  
25 medieval times neutralization often meant incarceration,  
26 torture and death. [Citations.] As described in the  
27 evidence at this trial the 'fair game' policy neutralized the  
28 'heretic' by stripping this person of his or her economic,  
political and psychological power."

24 Id. 212 Cal.App.3d at 888.

25  
26 <sup>2</sup> Recognizing the potential chilling effect of lawsuits  
27 brought primarily for the purpose of curbing the valid exercise of  
28 the constitutional rights of petition, or of free speech, the  
California Legislature last year added section 425.16 to the Code  
of Civil Procedure. The purpose of the legislation is set forth  
(continued...)



1 (Greene Decl., Ex. D.)

2 Submitted in support of Wollersheim's Special Motion to  
3 Strike was the Declaration of Gerald Armstrong (Greene Decl. Ex.  
4 E) for which Scientology is asking this court to issue the OSC.  
5 By means of this declaration, Gerald Armstrong authenticated  
6 Scientology's written policy which directs the use of litigation  
7 to harass its critics and opponents. The policy states, in part:

8 The purpose of the lawsuit is to harass and discourage  
9 rather than to win. [¶] The law can be used very easily  
10 to harass, and enough harassment on somebody who is  
11 simply on the thin edge anyway . . . will generally be  
12 sufficient to cause his professional decease. If  
13 possible, of course, ruin him utterly.

14 (Greene Decl., Ex. D at p. 10, fn 14.)

15 It is high irony that the very policy that Armstrong exposed  
16 in the declaration that he submitted in support of defendant  
17 Wollersheim's effort in Wollersheim II to vindicate his First  
18 Amendment rights, is now being used in this Court in an attempt to  
19 chill and harass Armstrong's own First Amendment rights to  
20 petition and free speech. What is worse is that Scientology is  
21 shamelessly lying when it makes the claim that Armstrong's  
22 declaration transgresses the Sohigian injunction because, clearly,  
23 it does not.

24 <sup>2</sup>(...continued)

25 in its first subsection: "The Legislature finds that there has  
26 been a disturbing increase in lawsuits brought primarily to chill  
27 the valid exercise of the constitutional rights of free speech and  
28 petition for redress of grievances. The Legislature also finds  
and declares that it is in the public interest to encourage  
continued participation in matters of public significance and that  
this participation should not be chilled through abuse of the  
judicial process." (§ 425.16 (a).)



1           **E.     Armstrong Gave Scientology Notice That**  
2           **The OSC Is Without Merit And Frivolous**

3  
4           On Friday, July 23, 1993, Gerald Armstrong's counsel  
5 telecopied Laurie J. Bartilson and demanded that she not proceed  
6 with the instant OSC and explained why it was without merit. The  
7 letter stated, in full:

8           In light of the fact that the injunction you claim  
9 my client to have violated does not prohibit Mr.  
10 Armstrong from providing declarations to private  
11 litigant defendants, and in light of the fact that your  
12 organization sued Mr. Wollersheim and Mr. Armstrong's  
perceived injunctive transgression is to have executed  
a declaration in support of defendant Wollersheim's  
motion to dismiss your suppressive litigation against  
him, any OSC that you seek on these grounds is without  
merit and frivolous.

13           We will oppose your meritless OSC and seek  
14 sanctions for having to again deal with your spurious  
efforts at using litigation as a tool of repression.

15 (Greene Decl., Ex F.)

16           Prior to the commencement of the weekend, Scientology refused  
17 to provide its OSC application to Armstrong's counsel. (Greene  
18 Decl. Exs. G, H.) Indeed, Armstrong provided his opposition to  
19 Scientology even before Scientology served its moving papers on  
20 him. (Greene Decl. at ¶ 10.)

21  
22           **III.   ARMSTRONG HAS NOT VIOLATED THE TERMS OF THE INJUNCTION**

23  
24           **A.     Armstrong's June 4, 1993, Declaration**  
25           **Does Not Fall Within The Scope Of Conduct**  
26           **Prohibited By The Sohigian Injunction**

27           Contempt committed out of the presence of the court, as is  
28 alleged here, is an indirect contempt. As such it falls within



1 the scope of Code of Civil Procedure section 1209 (5) which  
2 prohibits "disobedience of any lawful judgment, order, or process  
3 of such court." Since the injunction prohibits Armstrong only  
4 from voluntarily providing assistance to private litigant  
5 plaintiffs (i.e. those "intending to make, intending to press,  
6 intending to arbitrate, or intending to litigate a claim against  
7 the persons referred to in sec. 1 of the "Mutual Release of All  
8 Claims and Settlement Agreement" of December, 1986 regarding such  
9 claim or regarding pressing, arbitrating, or litigating it"), and  
10 since in Wollersheim II, Mr. Wollersheim is a defendant,  
11 Armstrong's declaration falls outside the scope of the injunction.  
12 Thus, Armstrong is guilty of neither transgression in spirit, nor  
13 violation in fact.

14  
15 **B. Armstrong's Declaration Is Protected**  
16 **By The Litigant's Privilege**

17 The litigation privilege is derived from Civil Code section  
18 47 (2). It states that a "privileged communication or broadcast  
19 is one made -[¶] 2. In any ... (2) judicial proceeding ..." In  
20 Silberg v. Anderson (1990) 50 Cal.3d 205, 266 Cal.Rptr. 638,  
21 Justice Kaufman stated that the litigants privilege is an  
22 essential prophylactic ingredient required to ward off corruption  
23 in litigation. He said:

24 The principal purpose of section 47(2) is to afford  
25 litigants and witnesses [citation omitted] the utmost  
26 freedom of access to the courts without fear of being  
harassed subsequently by derivative tort [or contempt]  
actions. [citations omitted.]

27 Section 47(2) promotes effectiveness of judicial  
28 proceedings by encouraging "open channels of  
communication and the presentation of evidence" in



1 judicial proceedings. [citations omitted.] A further  
2 purpose of the privilege "is to assure utmost freedom of  
3 communication between citizens and public authorities  
4 whose responsibility is to investigate and remedy  
5 wrongdoing." [citations omitted.] Such open  
6 communication is "a fundamental adjunct to the right of  
7 access to judicial and quasi-judicial proceedings."  
8 [citation omitted.] Since the "external threat of  
9 liability is destructive of this fundamental right and  
10 inconsistent with the effective administration of  
11 justice" (citation omitted), courts have applied the  
12 privilege to eliminate the threat of liability for  
13 communications made during all kinds of truth-seeking  
14 proceedings: judicial, quasi-judicial, legislative and  
15 other official proceedings. . . . Thus, witnesses should  
16 be free from the fear of protracted and costly lawsuits  
17 which otherwise might cause them to distort their  
18 testimony or refuse to testify altogether. [citations  
19 omitted]"

20 (Id. 50 Cal.3d at pp. 213-14.)

21 The privilege is absolute in nature. (Id. at p. 215)  
22 Therefore, any communication (1) made in judicial or quasi-  
23 judicial proceedings; (2) by litigants or other participants  
24 authorized by law; (3) to achieve the objects of the litigation;  
25 (4) that has some connection or logical relation to the action is  
26 completely privileged. (Id. at p. 212.) Armstrong's declaration  
27 was made in a judicial proceeding as a witness. His declaration  
28 was submitted to achieve the object of the litigation,  
specifically, to obtain an order striking Scientology's complaint  
in Wollersheim II as a violation of C.C.P. § 425.16. Armstrong's  
personal knowledge of Scientology's use of the legal system as a  
tool of harassment, ruin, and destruction has a logical connection  
to the resolution of Wollersheim II. Therefore, the Application  
for an Order to Show Cause falls within the scope of the  
litigant's privilege and on that basis should be denied as well.



1 IV. MONETARY SANCTIONS SHOULD BE AWARDED  
2 AGAINST THE CHURCH OF SCIENTOLOGY INTERNATIONAL  
3 AND AGAINST BOWLES AND MOXON AND LAURIE J. BARTILSON

4 Pursuant to Code of Civil procedure section 128.3 the court  
5 has the power to order counsel and parties to pay the reasonable  
6 expenses, including attorney's fees, incurred by the other party  
7 "as a result of bad-faith actions or tactics, which are  
8 frivolous..." Frivolous means (a) "totally and completely without  
9 merit" or (b) "for the sole purpose of harassing and opposing  
10 party." (C.C.P. § 128.5 (b)(2).)

11 Upon reading the Sohigian injunction, any reasonable attorney  
12 would conclude that the terms of the injunction telling Armstrong  
13 not to voluntarily assist litigants adverse to Scientology was  
14 limited to private litigant plaintiffs only. (Karawasky v. Zachay  
15 (1983) 146 Cal.App.3d 679.) The language of the injunction refers  
16 only to those bringing a claim against Scientology. Scientology  
17 brought a claim against Lawrence Wollersheim. Therefore,  
18 Armstrong's participation in Wollersheim II as a witness is beyond  
19 the injunction's scope. This renders the OSC application patently  
20 devoid of all merit.

21 In opposing the OSC Armstrong's counsel expended 4 hours in  
22 drafting the papers. The fees said counsel charges in such  
23 litigation are calculated at the rate of \$200.00 per hour.  
24 Paralegal time, valued at \$55.00 per hour, required 8 hours to get  
25 the document to Los Angeles Superior Court in time to present them  
26 to the Court, and 3 hours for document assembly for \$605.00. Copy  
27 costs total \$106.25 for 427 copies at \$.25 per copy and 29 fax  
28 sheets at 2.00 per sheet. Therefore, the total fees and costs



1 incurred in opposing the application are \$1,569.75.

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V. CONCLUSION

Gerald Armstrong respectfully submits that Scientology's application for an Order to Show Cause re Contempt should be rejected. The injunction Scientology accuses Armstrong of violating does not prohibit him from voluntarily submitting declarations in support of private litigant defendants, particularly when such a defendant is the subject of Scientology's engine of legal destruction. Moreover, Armstrong's participation is protected by the absolute litigant's privilege. Therefore, the application should be soundly rejected, and fees and costs charged to Scientology.

DATED: July 25, 1993



By: FORD GREENE and PAUL MORANTZ  
Attorneys for Defendant  
GERALD ARMSTRONG











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2 California State Bar No. 107601  
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4 PAUL MORANTZ, ESQ.  
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6 (310) 459-4745  
7 Attorney for Defendant  
GERALD ARMSTRONG

ORIGINAL FILED

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SUPERIOR COURT

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JUL 29 1993

HUB LAW OFFICES

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 IN AND FOR THE COUNTY OF LOS ANGELES

13 CHURCH OF SCIENTOLOGY )  
14 INTERNATIONAL, a California )  
not-for-profit religious )  
15 corporation; )  
16 Plaintiffs, )  
17 vs. )  
18 GERALD ARMSTRONG; DOES 1 )  
through 25, inclusive, )  
19 Defendants. )  
20 )  
21 )

No. BC 052395  
DECLARATION OF FORD GREENE  
IN OPPOSITION TO  
APPLICATION FOR AN ORDER TO  
SHOW CAUSE RE CONTEMPT;  
REQUEST FOR MONETARY SANCTIONS  
Date: July 26, 1993  
Time: 8:30 a.m.  
Dept: 86  
Trial Date: Stayed  
Discovery Cut Off: Stayed  
Motion Cut Off: Stayed

22 FORD GREENE declares:

- 23 1. I am an attorney licensed to practice law in the Courts  
24 of the State of California and am the attorney of record for  
25 Gerald Armstrong, defendant herein.  
26 2. Attached hereto and incorporated herein by reference as  
27 though fully set forth is Exhibit A, a true and correct copy of a  
28

COPY



1 letter dated July 23, 1993, from Laurie J. Bartilson to Ford  
2 Greene.

3 3. Attached hereto and incorporated herein by reference as  
4 though fully set forth is Exhibit B, a true and correct copy of  
5 the preliminary injunction issued in this case by the Honorable M.  
6 Sohigian on May 28, 1992.

7 4. Attached hereto and incorporated herein by reference as  
8 though fully set forth is Exhibit C, a true and correct copy of  
9 the Complaint to Set Aside Judgment and for Equitable Relief in  
10 Church of Scientology of California v. Larry Wollersheim, LASC No.  
11 BC 074815 ("Wollersheim II").

12 5. Attached hereto and incorporated herein by reference as  
13 though fully set forth is Exhibit D, a true and correct copy  
14 of the Amended Memorandum of Points and Authorities in Support of  
15 Defendant's Special Motion to Strike filed June 21, 1993, in  
16 Wollersheim II.

17 6. Attached hereto and incorporated herein by reference as  
18 though fully set forth is Exhibit E, a true and correct copy  
19 of Declaration of Gerald Armstrong dated June 4, 1993, filed as  
20 Exhibit 6 in support of the Amended Memorandum of Points and  
21 Authorities in Support of Defendant's Special Motion to Strike  
22 filed June 21, 1993, in Wollersheim II.

23 7. Attached hereto and incorporated herein by reference as  
24 though fully set forth is Exhibit F, a true and correct copy of a  
25 letter dated July 23, 1993, from Ford Greene to Laurie J.  
26 Bartilson.

27 8. Attached hereto and incorporated herein by reference as  
28 though fully set forth is Exhibit G, a true and correct copy of



1 letter dated July 23, 1993, from Gerald Armstrong on behalf of  
2 Ford Greene to Laurie J. Bartilson.

3 9. Attached hereto and incorporated herein by reference as  
4 though fully set forth is Exhibit H, a true and correct copy of a  
5 letter dated July 23, 1993, from Laurie J. Bartilson to Ford  
6 Greene.

7 10. On Sunday, July 25, 1993, I served by fax a copy of  
8 Defendant Armstrong's Memorandum In Opposition To Application For  
9 An Order To Show Cause Re Contempt; Request For Monetary Sanctions  
10 to Laurie J. Bartilson, counsel for plaintiff.

11 11. In cult-related litigation, such as that at bar, I bill  
12 my time at the rate of \$200.00 per hour. It has taken me four  
13 hours to draft the memorandum and declaration that are to be  
14 submitted in opposition to Scientology's Application for an Order  
15 to Show Cause Why Gerald Armstrong Should Not Be Held In Contempt.  
16 I value the time of my paralegal at \$55.00 per hour. In order for  
17 this opposition to be presented to the Court, I directed my paralegal  
18 to travel to Los Angeles so that said papers could be presented in a  
19 timely fashion. Three paralegal hours were expended on pulling,  
20 copying and assembling documents. 427 copies were made at the  
21 cost of \$.25 per copy and 29 fax sheets at \$2.00 per sheet.  
22 Therefore, the total fees and costs incurred in opposing the  
23 application are \$1,569.75.

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Under penalty of perjury pursuant to the laws of the State of California I hereby declare that the foregoing is true and correct according to my first-hand knowledge, except those matters stated to be on information and belief, and as to those matters, I believe them to be true.

Executed on July 25, 1993, at San Anselmo, California



FORD GREENE







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# ALSO ADMITTED IN OKLAHOMA

OF COUNSEL  
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MARCELLO M. DI MAURO  
KAREN L. BROWN  
KAREN D. HOLLY

July 23, 1993

BY TELEFAX AND U.S. MAIL

RECEIVED

JUL 23 1993

Ford Greene  
711 Sir Francis Drake Blvd.  
San Anselmo, California 94960-1949

HUE LAW OFFICES

Re: Church of Scientology International v. Gerald Armstrong

Dear Mr. Greene:

Please take notice that on Monday, July 26, 1993, at 8:30 a.m., plaintiff Church of Scientology International will appear in Department 86 of the Los Angeles Superior Court, and request that an order issue, pursuant to Code of Civil Procedure Section 1212, directing Gerald Armstrong to show cause why he should not be held in contempt of court and sanctioned. Plaintiff intends to base its request on the declaration, dated June 4, 1993, which Armstrong provided to Larry Wollersheim and his attorneys in direct contravention of the injunction issued in this case by Judge Sohigian on May 28, 1992.

Sincerely,

BOWLES & MOXON



Laurie J. Bartilson

LJB:mfh

Enc.

cc: Paul Morantz BY TELEFAX AND U.S. MAIL  
cc: Andrew H. Wilson BY TELEFAX AND U.S. MAIL







## SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: May 28, 1992  
 Honorable Ronald M. Sohigian, Judge  
 1

M. Cervantes, Deputy Clerk  
 None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International  
 vs.

Counsel For  
 Plaintiff

Gerald Armstrong, et al.

Counsel For  
 Defendant

No Appearances

**NATURE OF PROCEEDINGS:** RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

In this matter heretofore taken under submission on May 27, 1992, the court now makes the following ruling.

1 Plaintiff's legal remedies are inadequate insofar as the scope of relief ordered below is concerned, but not otherwise. CCP 526(4) and (5).

2 The threatened acts which are restrained by the order referred to below, but only those threatened acts, would do irreparable harm to plaintiff which could not be compensated by monetary damages. CCP 526(2).

3 On the basis of the instant record, there is a reasonable probability that plaintiff will prevail after trial of this case in the respects restrained by this order. CCP 526(1); cf., San Francisco Newspaper Printing Co., Inc. vs. Superior Court (Miller) (1985) 170 Cal. App. 3d 438.

4 Plaintiff is likely to suffer greater injury from denial of the preliminary injunction the terms of which are set out below than the injury which defendant is likely to suffer if it is granted. See Robbins vs. Superior Court (County of Sacramento) (1985) 38 Cal. 3d 199, 206.

5 The granting of a preliminary injunction in the terms set out below will preserve the status quo pending trial.



## SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: May 28, 1992  
 Honorable Ronald M. Sohigian, Judge  
 la

M. Cervantes, Deputy Clerk  
 None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International

Counsel For  
Plaintiff

vs..

Gerald Armstrong, et al.

Counsel For  
Defendant

No Appearances

**NATURE OF PROCEEDINGS:** RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

6 Application for preliminary injunction is granted in part, in the following respects only.

Defendant Gerald Armstrong, his agents, and persons acting in concert or conspiracy with him (excluding attorneys at law who are not said defendant's agents or retained by him) are restrained and enjoined during the pendency of this suit pending further order of court from doing directly or indirectly any of the following:

Voluntarily assisting any person (not a governmental organ or entity) intending to make, intending to press, intending to arbitrate, or intending to litigate a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986 regarding such claim or regarding pressing, arbitrating, or litigating it.

Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986.

The court does not intend by the foregoing to prohibit defendant Armstrong from: (a) being reasonably available for the service of subpoenas on him; (b) accepting service of subpoenas on him without physical resistance, obstructive tactics, or flight; (c) testifying fully and fairly in response to properly put questions either in deposition, at trial, or in other legal or arbitration proceedings; (d) properly reporting or disclosing to authorities criminal conduct of the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986; or (e) engaging in gainful employment rendering clerical or paralegal services not contrary to the terms and conditions of this order.



SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: May 28, 1992  
Honorable Ronald M. Schigian, Judge  
1b

M. Cervantes, Deputy Clerk  
None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International  
vs.

Counsel For  
Plaintiff

Gerald Armstrong, et al.

Counsel For  
Defendant

No Appearances

**NATURE OF PROCEEDINGS:** RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

The application for preliminary injunction is otherwise denied.

7 The restraints referred to in sec. 6, above, will become effective upon plaintiff's posting an undertaking in the sum of \$70,000 pursuant to CCP 529(a) by 12:00 noon on June 5, 1992.

8 The restraints referred to in sec. 6, above, properly balance and accommodate the policies inherent in: (a) the protectable interests of the parties to this suit; (b) the protectable interests of the public at large; (c) the goal of attaining full and impartial justice through legitimate and properly informed civil and criminal judicial proceedings and arbitrations; (d) the gravity of interest involved in what the record demonstrates defendant might communicate in derogation of the contractual language; and (e) the reasonable interpretation of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986. The fair interpretation of all the cases cited by the parties indicates that this is the correct decisional process. The law appropriately favors settlement agreements. Obviously, one limitation on freedom of contract is "public policy"; in determining what the scope of the public policy limitation on the parties' rights to enforcement of their agreement in the specific factual context of this case, the court has weighed the factors referred to in the first sentence of this section. Litigants have a substantial range of contractual freedom, even to the extent of agreeing not to assert or exercise rights which they might otherwise have. The instant record shows that plaintiff was substantially compensated as an aspect of the agreement, and does not persuasively support defendant's claim of duress or that the issues involved in this preliminary injunction proceeding were precluded by any prior decision.



SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: May 28, 1992  
Honorable Ronald M. Sohigian, Judge  
lc

M. Cervantes, Deputy Clerk  
None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International  
vs.

Counsel For  
Plaintiff

Gerald Armstrong, et al.

Counsel For  
Defendant

No Appearances

**NATURE OF PROCEEDINGS:** RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

9 The court does not dispositively decide the underlying merits of the case except for this preliminary determination. CCP 526(1); Baypoint Mortgage Corp. vs. Crest Premium Real Estate etc. Trust (1985) 168 Cal. App. 3d 818, 823.

10 Plaintiff is ordered give written notice by mail by June 5, 1992, including in that written notice a statement regarding whether plaintiff has or has not posted the undertaking referred to in sec. 7, above, and attaching to that written notice evidence showing that the undertaking has been posted if that is the fact.

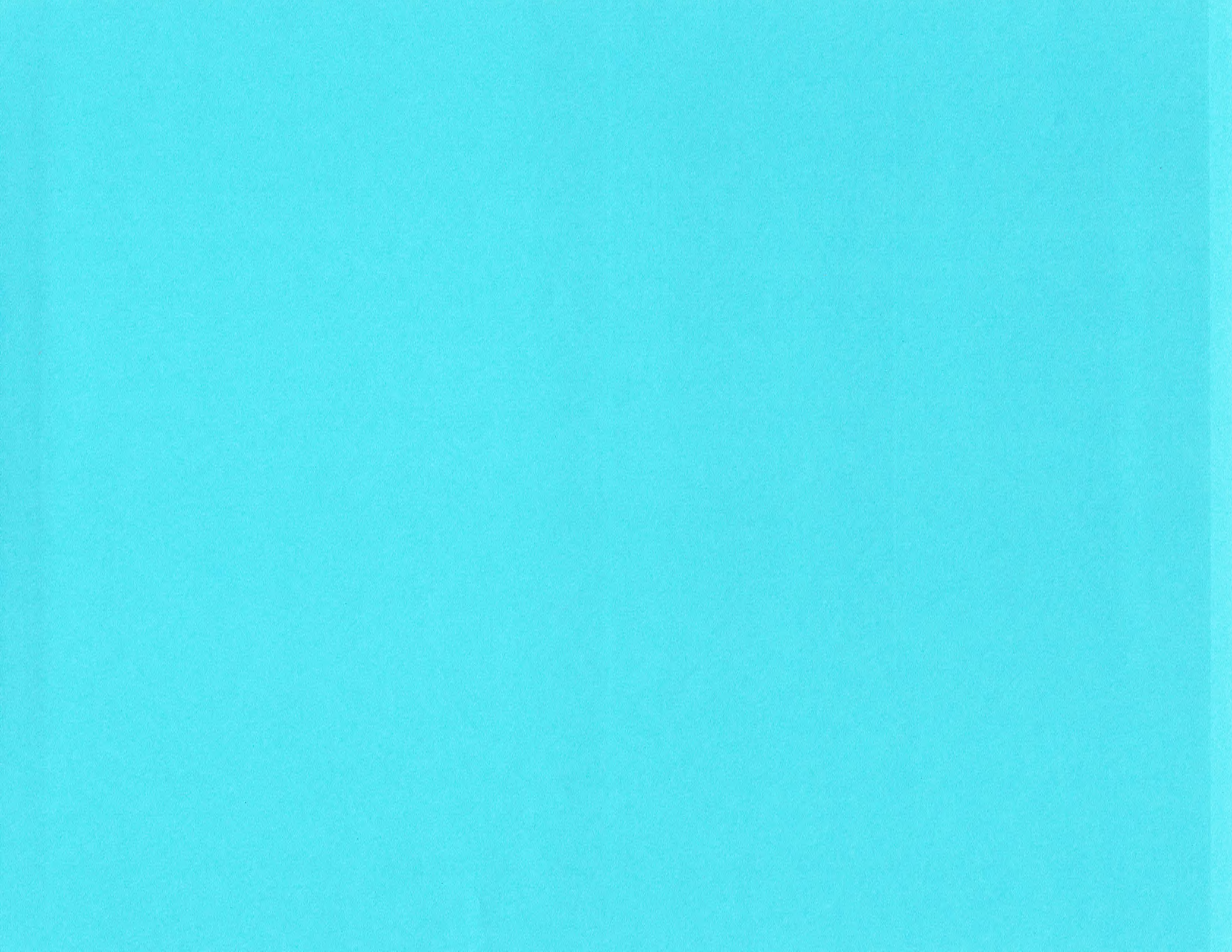
DATED: May 28, 1992.

RONALD M. SOHIGIAN

RONALD M. SOHIGIAN  
Judge of the Superior Court

A copy of this minute order is sent to counsel via United States mail this date.











1 was the result of passion and prejudice not merely of the jury,  
2 but of the sitting judge; that the judge was biased against the  
3 Church during the trial of the Prior Action because of beliefs  
4 that had no basis in fact, and came solely from extrajudicial  
5 sources; that the judge's prejudice became the source of the  
6 jurors' prejudice and bias; and that those prejudices were  
7 deliberately concealed from the Church and its counsel both  
8 during the trial proceedings and during post-trial proceedings in  
9 which the Church's attempts to inquire into the bias of judge and  
10 jury were uniformly thwarted. Because the trial court, due to  
11 his bias and prejudice, lacked jurisdiction over the trial of the  
12 Prior Action, the Church seeks equitable relief from the unjust  
13 judgment.

14 2. The Church is, and at all times herein mentioned was, a  
15 not for profit religious corporation organized and existing under  
16 the laws of the State of California with its principal offices at  
17 1404 North Catalina, Los Angeles, California 90027.

18 3. Defendant Larry Wollersheim is an individual whose  
19 current residence is not known to the Church, but whose current  
20 mail drop, upon information and belief, is P.O. Box 10910, Aspen,  
21 Colorado 81612.

22 4. Jurisdiction and venue are proper in this Court because  
23 this is an action for equitable relief from a judgment entered in  
24 the Prior Action. That judgment was modified by the California  
25 Court of Appeal in an opinion reported at 212 Cal.App.3d 872, 260  
26 Cal.Rptr. 331 (1989). The Court of Appeal's opinion was then  
27 vacated by the United States Supreme Court in a proceeding  
28 reported at 111 S.Ct. 1298 (1991). Judgment was again entered by



1 the California Court of Appeal on March 20, 1992, [Exhibit B] and  
2 modified by that Court on April 20, 1992 [Exhibit C]. On July  
3 23, 1992, the California Supreme Court granted the Church's  
4 petition for review. The case is being held pending decision by  
5 the Supreme Court of the United States in TXO Production Corp. v.  
6 Alliance Resources Corp., et al., No. 92-479 and pending a  
7 determination by the Supreme Court of California in Gourley v.  
8 State Farm Mutual Automobile Ins. Co. (SO14133) and MGW, Inc. v.  
9 Fredericks Development Corp. et al. (SO15966).

10 FIRST CAUSE OF ACTION

11 FOR EQUITABLE RELIEF FROM JUDGMENT

12 (Against Defendant Wollersheim)

13 5. This action seeks an order from the Court declaring the  
14 judgment in the Prior Action null and void in its entirety. The  
15 judgment rendered in the Prior Action was, and at all times has  
16 been, and now is void because the trial court lacked jurisdiction  
17 to render judgment in the Prior Action.

18 6. The Church is informed and believes that the judge in  
19 the Prior Action, the Honorable Ronald Swearinger, was  
20 disqualified under California case law and applicable provisions  
21 of the California Code of Civil Procedure, including C.C.P. §§  
22 170.1 and 170.6. Newly-discovered evidence, as hereinafter  
23 alleged, discloses that the judge entertained -- but failed to  
24 disclose that he entertained -- unfavorable beliefs and a biased  
25 condition of mind toward the Church during the trial of the Prior  
26 Action. The unfavorable beliefs had no basis in fact or  
27 evidence, nor did they derive from anything other than  
28 extrajudicial sources. Because of these unfounded beliefs and



1 bias, Judge Swearinger was disqualified throughout the pendency  
2 of the Prior Action, and lacked jurisdiction to preside over the  
3 trial, or to enter judgment.

4 7. During post-trial proceedings following the Prior  
5 Action, interviews with jurors conducted by the Church's  
6 attorneys revealed that the jurors "believed" that they were  
7 being followed by members of the Church of Scientology. One of  
8 the jurors, Terri Reuter, stated that the jury had been told by  
9 "unnamed court personnel," whom she refused to identify, that  
10 during the trial Judge Swearinger's tires had been slashed, and  
11 that his dog had been found dead. She said that the jurors  
12 attributed these actions to unknown and unnamed members of the  
13 Church of Scientology. None of the jurors, however, would  
14 volunteer further information about these events. No members of  
15 any Church of Scientology had, in fact, followed the jurors,  
16 slashed any tires, or done anything at all to Judge Swearinger's  
17 dog. The Church was aware, however, that Wollersheim's counsel,  
18 Charles O'Reilly, had hired multiple private investigators during  
19 the course of the Prior Action, and Church counsel suspected that  
20 one or more of these investigators were responsible for "dirty  
21 tricks" designed to implicate the Church, and prejudice the jury.

22 8. After the juror interviews, Church attorneys sought to  
23 investigate the bias that obviously pervaded the jury and  
24 infected its verdict, seeking the source of these unfounded  
25 accusations, which had never been made in the open courtroom  
26 during the trial itself. Church counsel raised with the Court  
27 the jury bias which had been learned of in post-trial interviews,  
28 including the statements made by Reuter, and made a request to



1 Judge Swearinger to be allowed discovery into the jurors in order  
2 to establish the extent and source of the taint. Wollersheim's  
3 counsel vigorously opposed such an investigation and Judge  
4 Swearinger refused to allow the discovery. The source of the  
5 jury's bias thus remained a mystery for five years.

6 9. Finally, in an interview with William W. Horne, a  
7 reporter employed by the American Lawyer magazine which took  
8 place in 1992, Judge Swearinger revealed that he maintained a  
9 condition of mind of unfavorable bias against the Church during  
10 the trial of the Prior Action. According to Horne, Judge  
11 Swearinger stated that his dog had drowned in the family swimming  
12 pool during the trial of the Prior Action, and that the judge  
13 believed that he had been followed when in his car throughout the  
14 trial. The judge informed Horne that, while he was in possession  
15 of no evidence to corroborate the suspicions he harbored, he  
16 nonetheless felt that members of the Church of Scientology were  
17 responsible for such actions.

18 10. The judge's "suspicions" had no basis in fact. No  
19 member of any Church of Scientology did anything to harass or  
20 follow Judge Swearinger during the Prior Action, nor did any  
21 member of any Church of Scientology have anything to do with the  
22 death of Judge Swearinger's dog.

23 11. During an interview with the Church's attorneys Eric M.  
24 Lieberman and Jonathan Lubell on March 19, 1992, Horne revealed  
25 Judge Swearinger's statements as set forth in paragraph 9, supra.  
26 For the first time, the Church and its attorneys suspected that  
27 the source of infection of the jury was the judge himself.

28 12. Horne provided further details concerning Judge



1 Swearinger's statements in an interview with the Church's  
2 attorney, Michael L. Hertzberg, in New York City on March 23,  
3 1992. Horne stated that Judge Swearinger related to Horne that  
4 the judge's veterinarian had told the judge that the dog was old  
5 and had died of a heart attack, yet Judge Swearinger still felt  
6 that the dog had fallen or been pushed into the pool. Horne  
7 further stated that the judge had said that he felt the Church  
8 somehow had responsibility for the dog's death.

9 13. Horne also told Hertzberg that Judge Swearinger claimed  
10 he had been followed "a few times" in his car during the trial of  
11 the Prior Action and had assumed that the Church of Scientology  
12 was responsible for these actions.

13 14. In the July/August 1992 issue of American Lawyer,  
14 Horne published an article which quotes Judge Swearinger as  
15 saying:

16 "I was followed [at various times] throughout the trial  
17 . . . and during motions for a new trial . . . . All  
18 kinds of things were done to intimidate me, and there  
19 were a number of unusual occurrences during that trial.  
20 My car tires were slashed. My collie drowned in my  
21 pool. But there was nothing overtly threatening, and I  
22 didn't pay any attention to the funny stuff."

23 15. During the pendency of the Prior Action, Judge  
24 Swearinger never mentioned these incidents to counsel for the  
25 Church nor revealed (to them) his concern or belief that Church  
26 personnel were responsible for acts of harassment against him.  
27 By withholding any mention of his concern, Judge Swearinger  
28 denied the Church the opportunity to remove his concerns or to



1 challenge him for cause.

2 16. The Church is informed, and therefore believes, that  
3 although Judge Swearinger did not divulge his state of mind to  
4 Church counsel, he did describe these incidents to court  
5 personnel during the trial of the Prior Action, and that court  
6 personnel, in turn, revealed them to the jurors, resulting in a  
7 jury as biased as the judge.

8 17. In April, 1992, during a chambers conference in a case  
9 unrelated to the Prior Action and to which neither Wollersheim  
10 nor the Church was a party, Judge Swearinger discussed the trial  
11 of the Prior Action with counsel in that case, one of whom was  
12 counsel for Wollersheim in the most recent Court of Appeal  
13 proceeding in the Prior Action. The Church is informed, and  
14 therefore believes, that Judge Swearinger stated to Wollersheim's  
15 appellate lawyer that he believed the award of damages in the  
16 Prior Action was excessive but that he had deliberately chosen to  
17 allow the excessive verdict to stand because of his displeasure  
18 with the Church and its trial counsel.

19 18. During the chambers conference, Judge Swearinger asked  
20 Wollersheim's appellate counsel to see if he could arrange with  
21 the Church's counsel for a certain official of the Church of  
22 Scientology to call Judge Swearinger. The judge also showed bias  
23 against the Church and its counsel through derogatory references  
24 to the Church's counsel. The judge referred to the Church's  
25 counsel, Earl Cooley, as Earl "Fooley," because Mr. Cooley had  
26 alleged that there had been tampering with the jury.

27 19. Wollersheim's appellate counsel relayed Judge  
28 Swearinger's remarks to one of the Church's counsel who, after



1 client consultation, called Judge Swearinger on behalf of the  
2 Church of Scientology official with whom Judge Swearinger had  
3 asked to speak. In that telephone conversation with Church  
4 counsel, Judge Swearinger repeated the substance of his discourse  
5 with Wollersheim's appellate counsel concerning his state of mind  
6 with respect to the jury verdict in the Prior Action. The judge  
7 stated that at the time of the post-trial motion he probably  
8 would have done what the Court of Appeal eventually did -- i.e.,  
9 reduce the jury's damage award by 27.5 million dollars. He  
10 explained, however, that he did not do so because such an action  
11 would have given credibility to Mr. "Fooley's" charge that the  
12 jury was tainted. Now, five years later, it has finally been  
13 revealed that not only was Mr. Cooley correct about the jury  
14 taint, but that it was Judge Swearinger, himself, who was the  
15 source of the jury's taint and corruption.

16 20. Judge Swearinger's comments, made long after the trial  
17 of the Prior Action, revealed that he possessed, throughout the  
18 Prior Action, unfounded suspicions and unfavorable beliefs  
19 regarding the Church, none of which were disclosed during the  
20 pendency of the Prior Action. Moreover, those comments make  
21 clear that the judge improperly permitted entry of a judgment he  
22 knew to be outrageous, and the result of bias and prejudice, in  
23 order to conceal that he, himself, was the source of the jury's  
24 bias and prejudice.

25 21. Judge Swearinger's concealment, during the Prior  
26 Action, of his suspicions, bias and prejudice denied the Church  
27 any opportunity to address and alleviate Judge Swearinger's  
28 concerns, or to challenge him for cause, thus resulting in an



1 unfair trial and an unjust verdict. Further, Judge Swearinger's  
2 refusal during the post-trial stages of the Prior Action to  
3 permit discovery into the source of the jurors' bias and  
4 prejudice prevented the Church from discovering, other than by  
5 chance, that the judge was also the source of jury bias and  
6 taint.

7 22. The Church was recently apprised of all of the  
8 foregoing information regarding Judge Swearinger's state of mind  
9 during the Prior Action. Prior to this time such information was  
10 not available to the Church despite the Church's diligence. The  
11 Church is free from contributory fault in the entry of the  
12 previous judgment.

13 23. The Church will suffer irreparable harm and irreplace-  
14 able loss if the final judgment entered in the Prior Action is  
15 permitted to stand, and the Church has no adequate remedy at law.

16 WHEREFORE, the Church prays for judgment as follows:

17 1. That the judgment rendered against the Church in the  
18 Prior Action be declared null and void and of no further effect;  
19 and

20 2. For such other and further relief as the Court may deem  
21 just and proper.

22 DATED: February 16, 1993

Respectfully submitted,

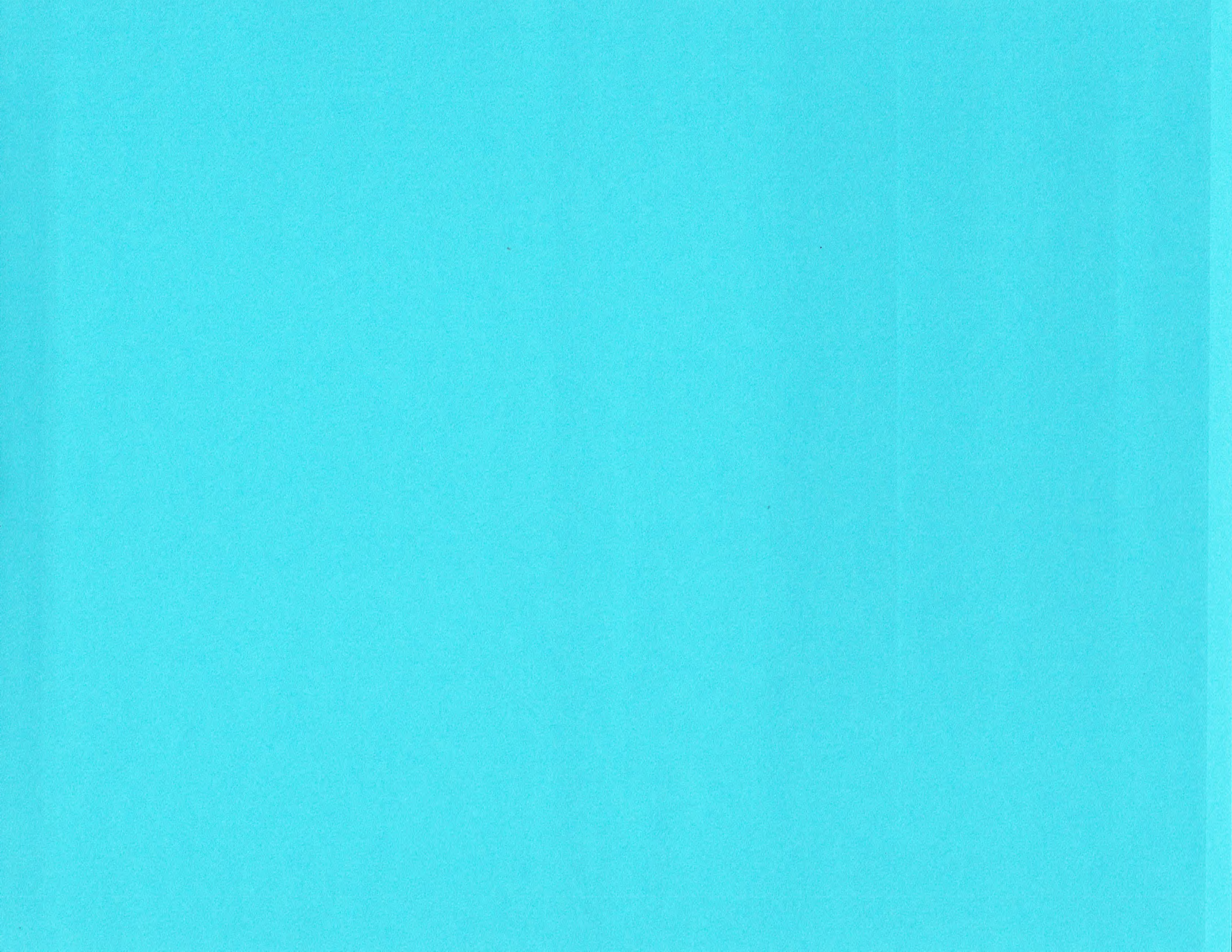
23 BOWLES & MOXON

24  
25 By:

  
Kendrick L. Moxon

26 Attorneys for Plaintiff  
27 CHURCH OF SCIENTOLOGY OF  
28 CALIFORNIA







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10 (303) 650-3336

11 In Pro Per

12

13

14

SUPERIOR COURT OF THE STATE OF CALIFORNIA

15

COUNTY OF LOS ANGELES

16

17 CHURCH OF SCIENTOLOGY OF )  
CALIFORNIA, )

18 Plaintiff, )

19 vs. )

20 LARRY WOLLERSHEIM, )

21 Defendant. )

22 )

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28

ORIGINAL FILED

JUN 21 1993

LOS ANGELES  
SUPERIOR COURT

No. BC 074815

AMENDED MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF DEFENDANT'S  
SPECIAL MOTION TO STRIKE

Date: July 2, 1993

Time: 9:00 a.m.

Dept: 14



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TABLE OF AUTHORITIES. . . . . iv

INTRODUCTION. . . . . 1

I. THIS SPECIAL MOTION TO STRIKE IS AUTHORIZED BY § 425.16. . . . . 1

II. THIS MOTION SHOULD BE GRANTED BECAUSE PLAINTIFF CAN NOT DEMONSTRATE A PROBABILITY THAT IT WILL PREVAIL ON ITS CLAIMS. . . . . 2

A. THIS COURT HAS NO JURISDICTION OVER THIS ACTION BECAUSE THE MAIN ACTION IS PENDING BEFORE THE CALIFORNIA SUPREME COURT. . . . . 3

B. THIS COURT HAS NO JURISDICTION OVER THIS ACTION BECAUSE IT IS MERELY A DISGUISED ATTEMPT TO BRING AN UNTIMELY MOTION FOR A NEW TRIAL. . . . . 4

C. THIS ACTION IS BARRED BECAUSE IT IS UNTIMELY AND PLAINTIFF HAS NOT EXERCISED DUE DILIGENCE IN RAISING THESE CLAIMS. . . . . 5

D. PLAINTIFF DOES NOT PLEAD AND CAN NOT SHOW THAT IT HAS A MERITORIOUS DEFENSE IN THE MAIN ACTION. . . . . 6

E. PLAINTIFF'S COMPLAINT IS NOT SUFFICIENT TO SET ASIDE THE JUDGMENT BECAUSE IT ALLEGES AT MOST INTRINSIC FRAUD. . . . . 7

F. PLAINTIFF CAN NOT DEMONSTRATE A PROBABILITY THAT IT WILL PREVAIL ON ITS CLAIM IN THIS ACTION THAT JUDGE SWEARINGER SHOULD HAVE BEEN DISQUALIFIED. . . . . 7

G. PLAINTIFF CAN NOT DEMONSTRATE A PROBABILITY THAT IT CAN PROVE KEY FACTS WHICH IT ALLEGES IN ITS COMPLAINT. . . . . 8

H. THIS ACTION IS BARRED BY COLLATERAL ESTOPPEL BECAUSE THE CLAIMS MADE BY PLAINTIFF HERE WERE ALREADY RAISED BY PLAINTIFF AND REJECTED BY THE COURTS IN THE MAIN ACTION AND IN ANOTHER PROCEEDING. . . . . 9

I. THIS ACTION IS PART OF PLAINTIFF'S LITIGATION STRATEGY TO USE THE COURTS TO HARASS ITS OPPONENTS. . . . . 10



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J. THIS ACTION IS PART OF PLAINTIFF'S LITIGATION  
STRATEGY OF ATTACKING JUDGES WHO RULE AGAINST  
THEM AS BIASED. .... 12

K. PLAINTIFF HAS UNCLEAN HANDS AND IS NOT ENTITLED  
TO THE EQUITABLE RELIEF SOUGHT. .... 13

CONCLUSION. .... 14



TABLE OF AUTHORITIES

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1		
2		
3		
4	<u>Allard v. Church of Scientology of California</u>	
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6	<u>Andrisani v. Saugus Colony Limited</u>	
7	(1992) 8 Cal.App.4th 517 [10 Cal.Rptr.2d 444] . . .	8
8	<u>Bastian v. County of San Luis Obispo</u>	
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10	<u>Beresh v. Sovereign Life Insurance Company of California</u>	
11	(1979) 92 Cal.App.3d 547 [155 Cal.Rptr. 74]	3
12	<u>Church of Scientology of California v. Armstrong</u>	
13	(1991) 232 Cal.App.3d 1060 [283 Cal.Rptr. 917] . . .	6, 11, 15
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15	(5 Cir. 1981) 638 F.2d 1272 . . . . .	11
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20	<u>Church of Scientology of California v. Siegelman</u>	
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24	<u>Clemente v. State</u>	
25	(1985) 40 Cal.3d 202 [219 Cal.Rptr. 445] . . . . .	9
26	<u>DeRosa v. Transamerica Title Insurance Co.</u>	
27	(1989) 13 Cal.App.3d 1390 [262 Cal.Rptr. 370] . . .	13
28	<u>Ehrler v. Ehrler</u>	
29	(1981) 126 Cal.App.3d 147 [178 Cal.Rptr. 642] . . .	4
30	<u>Elsa v. Saberi</u>	
31	(1992) 4 Cal.App.4th 625 [5 Cal.Rptr.2d 742] . . .	3
32	<u>Gourley v. State Farm Mutual Automobile Ins. Co.</u>	
33	(1991) 53 Cal.3d 121 [3 Cal.Rptr.2d 666] . . .	9



1	<u>Hurst v. Hazel Hurst Foundation for the Blind</u>	
2	(1955) 134 Cal.App.2d 686 [155 Cal.Rptr. 74] . . . . .	3
3	<u>Kulchar v. Kulchar</u>	
4	(1969) 1 Cal.3d 467 [82 Cal.Rptr. 489] . . . . .	7
5	<u>Linhart v. Nelson</u>	
6	(1976) 18 Cal.3d 641 [134 Cal.Rptr. 813] . . . . .	4
7	<u>McCreadie v. Arques</u>	
8	(1967) 248 Cal.App.2d 39 [56 Cal.Rptr. 188] . . . . .	6
9	<u>MGW, Inc. v. Fredericks Development Corp.</u>	
10	(1992) ___ Cal.App.4th ___ [10 Cal.Rptr.2d 85, 832 P.2d 586] . . . . .	9
11	<u>New York Higher Education Assistance Corporation v. Siegel</u>	
12	(1979) 91 Cal.App.3d 684 [154 Cal.Rptr. 200] . . . . .	6, 7
13	<u>People v. Hull</u>	
14	(1991) 1 Cal.4th 266 [2 Cal.Rptr.2d 526] . . . . .	7
15	<u>Religious Technology Center v. Wollersheim</u>	
16	(9 Cir. 1986) 796 F.2d 1076, cert. den. 479 U.S. 1103, dismissed (1992) 971 F.2d 364 . . . . .	12, 13
17	<u>Tri-County Elevator Co. v. Superior Court</u>	
18	(1982) 135 Cal.App.3d 271 [185 Cal.Rptr. 208] . . . . .	4
19	<u>TXO Production Corp. v. Alliance Resources Corp.</u>	
20	(1992) 5 Cal.App.4th 1445, 1461, 7 Cal.Rptr.2d 513 . . . . .	9
21	<u>United States v. Heldt</u>	
22	(DC Cir. 1981) 668 F.2d 1238, cert.den. 102 S.Ct. 1971 . . . . .	12
23	<u>Walbrook Insurance v. Liberty Mutual Insurance</u>	
24	(1992) 5 Cal.App.4th 1445, 1461, 7 Cal.Rptr.2d 513 . . . . .	2
25	<u>Wollersheim v. Church of Scientology of California ("the Main Action")</u>	
26	Los Angeles Superior Court No. C 332 027, (1989) 212 Cal.App.3d 872 [260 Cal.Rptr. 331], 3 Cal.App.4th 1290 [6 Cal.Rptr.2d 532] . . . . .	passim

**STATUTES**

25	Code of Civil Procedure	
26	§ 170.1 . . . . .	7
27	§ 170.3(c)(1) . . . . .	5
28		



1	§ 170.3(d) . . . . .	7
2	§ 170.6 . . . . .	7, 12
3	§ 389(a) . . . . .	3
4	§ 425.16 . . . . .	1, 2, 3,
5	§ 425.16(b) . . . . .	2
6	§ 425.16(c) . . . . .	14
7	§ 473 . . . . .	6
8	§ 657 (1) & (2) . . . . .	4
9	§ 659 (2) . . . . .	4
10	§ 916(a) . . . . .	3
11		
12	Evidence Code	
13	§ 451(a) . . . . .	9
14	§§ 452(a), (c), (d), & (h) . . . . .	9
15	§ 453 . . . . .	9
16		
17	MISCELLANEOUS	
18	<u>Black's Law Dictionary</u> (Rev.4th Ed. 1968) p.1364. . . . .	2
19	L. Ron Hubbard, <u>The Technical Bulletins of Dianetics and Scientology</u> , Volume II, p. 157 . . . . .	10
20	<u>Restatement 2nd</u> , Judgments, § 70(2)(a)	
21	Witkin, 8 <u>Cal. Procedure</u> (3d ed. 1985),	
22	Attack on Judgment in Trial Court	
	§ 204, p. 604 . . . . .	5
23	§ 216, p. 620 . . . . .	6
	§ 218, p. 622 . . . . .	5
24	§ 221, p. 625 . . . . .	7
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1 INTRODUCTION.

2 Plaintiff Church of Scientology of California ("Scientology") filed this action to set  
3 aside a \$2.5 million judgment which was upheld by the District Court of Appeal, in  
4 Wollersheim v. Church of Scientology of California (1989) 212 Cal.App.3d 872, 260 Cal.Rptr.  
5 331, and (1992) 3 Cal.App.4th 1290, 6 Cal.Rptr.2d 532, and which is currently pending  
6 before the California Supreme Court.<sup>1</sup>

7 This action was brought almost seven years after the trial verdict and eleven months  
8 after the allegedly "new evidence" upon which it is based came to the attention of  
9 Scientology's attorneys. It alleges improper conduct by trial judge Ronald Swearinger, but  
10 was conveniently filed shortly after Judge Swearinger died, so he can no longer defend  
11 himself. The action is untimely, improper, without merit, and filed to further harass  
12 defendant. Because it arises from defendant's exercise of his First Amendment right to  
13 petition the government (file a lawsuit), this action is subject to a special motion to strike  
14 under Code of Civil Procedure § 425.16,<sup>2</sup> which should be granted for the reasons set forth  
15 below.  
16

17 L THIS SPECIAL MOTION TO STRIKE IS AUTHORIZED BY § 425.16.

18 Recognizing the potential chilling effect of lawsuits brought primarily for the purpose  
19 of curbing the valid exercise of the constitutional rights of petition or freedom of speech,<sup>3</sup>  
20  
21

---

22 <sup>1</sup>See discussion in footnote 13 below for a more detailed discussion of the appellate  
23 proceedings.

24 <sup>2</sup>Subsequent section references are to the Code of Civil Procedure, unless otherwise  
noted.

25 <sup>3</sup>The purpose of the legislation is set forth in its first subsection: "The Legislature finds  
26 that there has been a disturbing increase in lawsuits brought primarily to chill the valid  
27 exercise of the constitutional rights of freedom of speech and petition for redress of  
28 grievances. The Legislature also finds and declares that it is in the public interest to  
encourage continued participation in matters of public significance, and that this participation  
should not be chilled through abuse of the judicial process." § 425.16(a).



1 the California Legislature last year added § 425.16 to the Code of Civil Procedure. Effective  
2 January 1, 1993, the section specifies that an action arising from a defendant's exercise of  
3 the constitutional right to petition the government shall be subject to a motion to strike  
4 unless the plaintiff can show a "probability" of success on the merits.<sup>4</sup>

5 Plaintiff's complaint against defendant falls squarely within § 425.16. The complaint  
6 seeks to set aside the judgment in the action entitled Larry Wollersheim v. Church of  
7 Scientology of California, Los Angeles Superior Court No. C 332 027 (the "Main Action").

8 The petition activity which is protected by this new statute includes "any written  
9 statement...made before a...judicial proceeding..." (§ 425.16(e).) This surely includes  
10 defendant Wollersheim's filing of a complaint in the Main Action. The complaint in this  
11 action arises from the defendant's exercise of his right to petition the government in one of  
12 its most fundamental forms, filing a lawsuit. Therefore, defendant brings this timely<sup>5</sup> special  
13 motion to strike.  
14

15

16 II. THIS MOTION SHOULD BE GRANTED BECAUSE PLAINTIFF CAN NOT  
17 DEMONSTRATE A PROBABILITY THAT IT WILL PREVAIL ON ITS  
18 CLAIMS.

19 As demonstrated below, plaintiff cannot meet its burden of establishing a probability<sup>6</sup>  
20

21

22 <sup>4</sup>Section 425.16(b) provides, in pertinent part: "A cause of action arising from any act  
23 of that person in furtherance of the person's right of petition or free speech in connection  
24 with a public issue shall be subject to a special motion to strike, unless the court determines  
25 that the plaintiff has established that there is a probability that the plaintiff will prevail on  
26 the claim."

27 <sup>5</sup>This special motion has been filed within 60 days of service of the complaint, as  
28 provided in § 425.16(f). See Plaintiff's proof of service, filed April 12, 1993.

29 <sup>6</sup>"Probable" is synonymous with "likely", and "probability" is synonymous with "likelihood".  
30 (Walbrook Insurance v. Liberty Mutual Insurance (1992) 5 Cal.App.4th 1445, 1461, 7  
31 Cal.Rptr.2d 513; see also Black's Law Dictionary (Rev.4th Ed. 1968) p.1364 ["probability"  
32 means "likelihood"].) "A 'probable' consequence is one more likely to follow its cause than  
33 not..." (Bastian v. County of San Luis Obispo (1988) 199 Cal.App.3d 520, 533, 245 Cal.Rptr.  
34 78.)



1 that it will prevail on the merits of its claims, as required by § 425.16(b).<sup>7</sup> Therefore, this  
2 special motion to strike should be granted.<sup>8</sup>

3 A. THIS COURT HAS NO JURISDICTION OVER THIS ACTION  
4 BECAUSE THE MAIN ACTION IS PENDING BEFORE THE  
5 CALIFORNIA SUPREME COURT.

6 The special motion to strike should also be granted because the Main Action is  
7 pending before the California Supreme Court, and this Court has no jurisdiction to hear this  
8 action. Plaintiff has acknowledged that the Main Action is currently pending before the  
9 California Supreme Court. (Complaint ¶ 4.)

10 C.C.P. § 916(a) provides in relevant part:

11 "...the perfecting of an appeal stays proceedings in the trial court upon the judgment  
12 or order appealed from or upon the matters embraced therein or affected thereby..."

13 Under this provision, a trial court has no power to vacate an appealed judgment while the  
14 appeal is pending. (Elesa v. Saberi (1992) 4 Cal.App.4th 625, 629, 5 Cal.Rptr.2d 742.)<sup>9</sup>

15 Furthermore, one department of the Superior Court cannot enjoin or otherwise  
16 interfere with the judicial act of another department in the same court. (Elesa v. Saberi,  
17 supra, 4 Cal.App.4th at 631.)

18  
19  
20  
21 <sup>7</sup>Unlike a demurrer, where the Court is limited to considering matters appearing on the  
22 face of the complaint (or matters of which judicial notice is taken), on a § 425.16 special  
23 motion to strike, the Court "shall consider the pleadings, and supporting and opposing  
24 affidavits stating the facts upon which the liability or defense is based." § 425.16(b).

25 <sup>8</sup>In addition to the defects discussed in the following subsections, the complaint omits a  
26 necessary party – the Superior Court of Los Angeles County, under § 389(a).

27 <sup>9</sup>Even if the complaint alleges extrinsic fraud (see discussion that the complaint alleges  
28 intrinsic fraud, in II-E below), the trial court does not have jurisdiction to vacate a judgment:  
29 "In effect the appeal removed from the jurisdiction of the Superior Court the subject-matter  
30 of the judgment. A motion to vacate for extrinsic fraud is embraced within the subject  
31 matter of a judgment appealed from." (Hurst v. Hazel Hurst Foundation for the Blind  
32 (1955) 134 Cal.App.2d 686, 689, 286 P.2d 53, 55, cited with approval in Beresh v. Sovereign  
33 Life Insurance Company of California (1979) 92 Cal.App.3d 547, 562, 155 Cal.Rptr. 74.)



1 B. THIS COURT HAS NO JURISDICTION OVER THIS ACTION  
2 BECAUSE IT IS MERELY A DISGUISED ATTEMPT TO BRING AN  
3 UNTIMELY MOTION FOR A NEW TRIAL

4 The plaintiff's claims here, of judge and jury bias and misconduct, are claims that  
5 should have been raised in a motion for new trial in the Main Action. (§ 657 (1) & (2).)  
6 Such a motion must be filed within 15 days after notice of entry of judgment or 180 days  
7 after entry of judgment. (§ 659 (2).) The court has no jurisdiction to entertain an untimely  
8 motion for new trial. (Ehrler v. Ehrler (1981) 126 Cal.App.3d 147, 151, 178 Cal.Rptr. 642;  
9 Tri-County Elevator Co. v. Superior Court (1982) 135 Cal.App.3d 271, 277, 185 Cal.Rptr.  
10 208).

11 Scientology, however, instead of raising these claims in a timely motion for new trial,  
12 has raised them in a separate action, almost seven years after the trial verdict in the Main  
13 Action, and has improperly attempted to depose Main Action jurors,<sup>10</sup> which is prohibited by  
14 law.<sup>11</sup> As discussed above, the Court has no jurisdiction to the relief sought here.

15  
16 <sup>10</sup>Plaintiff noticed depositions in this action of Main Action jurors and other court  
17 personnel before defendant had even appeared in this action. Depositions of Main Action  
18 jurors Andre Anderson and Terri Reuter were originally noticed for May 18, 1993.  
19 Depositions of Main Action court clerk Cynthia Buter (misspelled as Butler) and bailiff  
20 Antoinette Carrasco were originally noticed for May 28, 1993. (See defendant's Application  
for Ex Parte Order to Stay All Discovery and the Declaration of Laurie J. Bartilson in  
Opposition, both filed May 27, 1993, and Exhibit 9 (plaintiff's deposition notices) filed  
herewith.)

21 In addition, Scientology attempted to take depositions of Main Action jurors and  
court personnel in two federal actions. (Amd. O'Reilly Decl., Ex. 1, ¶ 10.)

22 <sup>11</sup>In Linhart v. Nelson (1976) 18 Cal.3d 641, 644-645, 134 Cal.Rptr. 813, the Court held  
23 that in civil cases parties may not subpoena jurors or other witnesses to support a claim of  
24 jury misconduct: "To allow a disappointed litigant to call witnesses in support of his motion  
25 [for new trial] could effectively allow retrial of his case. ...[P]ermitting jurors or other  
26 witnesses to testify for one party would mean that opposing parties - unaware of the  
27 proposed testimony - would be obligated to subpoena all jurors and other witnesses in  
28 preparation for hearing. [¶] Moreover, permitting counsel for the losing party to  
interrogate unwilling trial jurors touches the integrity of our venerable jury process. First,  
once aware that after sitting through a lengthy trial he himself may be placed on trial, only  
the most courageous prospective juror will not seek excuse from service. Secondly, if jury  
deliberations are subject to compulsory disclosure, independent thought and debate will  
surely be stifled."



1 C. THIS ACTION IS BARRED BECAUSE IT IS UNTIMELY AND  
2 PLAINTIFF HAS NOT EXERCISED DUE DILIGENCE IN RAISING  
3 THESE CLAIMS.

4 A party bringing an equitable action such as this to set aside a judgment must "[h]ave  
5 acted with due diligence in discovering the facts constituting the basis for relief."  
6 (Restatement 2nd, Judgments, § 70(2)(a), quoted in 8 Witkin, Cal. Procedure (3d ed. 1985),  
7 Attack on Judgment in Trial Court, § 204, p. 604.) He must also show diligence in seeking  
8 relief after discovery of the facts. (Witkin, supra, § 218, p. 622.) Grounds for  
9 disqualification of a judge, such as those alleged here, must be "presented at the earliest  
10 practicable opportunity after discovery of the facts constituting the ground for  
11 disqualification." § 170.3(c)(1). Plaintiff did not exercise due diligence here, either in  
12 discovering the alleged new facts, or in bringing them to the attention of the Court.

13 The judgment in the Main Action, which plaintiff attacks in this action, was rendered  
14 on July 22, 1986. (Complaint  
15 ¶ 1.) In post-trial interviews with the jurors, plaintiff says its attorneys learned that some  
16 jurors believed that they were being followed by members of Scientology, and that one juror  
17 said that the jury had been told by court personnel that during the trial Judge Swearinger  
18 had been the subject of vandalism. (Id. ¶ 7.) Plaintiff unsuccessfully requested discovery  
19 regarding these matters in post-trial motions in the Main Action. (Id. ¶ 8.) There is no  
20 indication in the complaint that plaintiff did anything further regarding this matter until  
21 March 1992.

22 On March 19 and 23, 1992, Scientology says its attorneys conducted interviews with  
23 William Horne which led Scientology to believe that Judge Swearinger was biased against  
24 Scientology. (Id., pars. 11-13.) Yet plaintiff waited almost a full year, until after Judge  
25 Swearinger had died, to file this action.  
26  
27  
28



1 Thus, plaintiff filed this action almost seven years after the underlying events, and  
2 almost eleven months after plaintiff claims to have received the "new evidence". This is not  
3 the earliest practicable opportunity or due diligence, and the granting of the relief requested  
4 would be seriously prejudicial to defendant Wollersheim, forcing on him a burden to litigate  
5 matters now more than seven years old. (See McCreadie v. Arques (1967) 248 Cal.App.2d  
6 39, 47, 56 Cal.Rptr. 188.)

7 Further, the time has long since expired for the plaintiff to seek relief from the  
8 judgment of this Court under § 473. (See Church of Scientology of California v. Armstrong  
9 (1991) 232 Cal.App.3d 1060, 1069-70, 283 Cal.Rptr. 917.)

10 — D. PLAINTIFF DOES NOT PLEAD AND CAN NOT SHOW THAT IT HAS  
11 A MERITORIOUS DEFENSE IN THE MAIN ACTION.

12 The relief sought by plaintiff in this action must also be denied because plaintiff does  
13 not plead, and can not show, that it has a meritorious defense:

14 "A valid judgment will not be set aside merely because it was obtained by extrinsic  
15 fraud or mistake, in order to give the barren right of an adversary hearing. The  
16 plaintiff must plead and prove that he has a meritorious case, i.e., a good claim or  
17 defense which, if asserted in a new trial, would be likely to result in a judgment  
18 favorable to him."

19 (8 Witkin, Cal. Procedure, supra, § 216, p. 620, quoted in New York Higher Education  
20 Assistance Corporation v. Siegel (1979) 91 Cal.App.3d 684, 688-689, 154 Cal.Rptr. 200.)

21 The complaint in this action does not even allege that plaintiff has a meritorious case  
22 which would likely result in a favorable judgment in a new trial. Furthermore, upon  
23 weighing the entire trial court record, the First District Court of Appeal unanimously  
24 concluded that "there is ample evidence to support the jury's verdict on Wollersheim's claim  
25 for intentional infliction of emotional distress." (Wollersheim v. Church of Scientology,  
26 supra, 212 Cal.App.3d at 882.) This conclusion has remained undisturbed in the subsequent  
27 appellate litigation regarding the punitive damages issue. (See fn.13 below.)  
28



1 E. PLAINTIFF'S COMPLAINT IS NOT SUFFICIENT TO SET ASIDE THE  
2 JUDGMENT BECAUSE IT ALLEGES AT MOST INTRINSIC FRAUD.

3 Plaintiff's complaint alleges intrinsic, not extrinsic, fraud. However, this is not  
4 grounds for an equitable action to set aside a judgment. As Witkin notes:

5 "Ordinarily, if the aggrieved party is aware of the proceeding and is not prevented  
6 from appearing, any fraud is intrinsic and not a basis for equitable relief..." --  
7 "If the aggrieved party had a reasonable opportunity to appear and litigate his claim  
8 or defense, fraud occurring in the course of the proceeding is not a ground for  
9 equitable relief. The theory is that these matters will ordinarily be exposed during  
10 the trial by diligence of the party and his counsel, and that the occasional  
11 unfortunate result of undiscovered perjury or other intrinsic fraud must be endured in  
12 the interest of stability of final judgments."

13 (8 Witkin, Cal Procedure, supra § 207, p. 606; § 221, p. 625; Kulchar v. Kulchar (1969) 1  
14 Cal.3d 467, 472-473, 82 Cal.Rptr. 489.)

15 Here, Scientology was not prevented from appearing and defending in the Main  
16 Action by any extrinsic fraud. Any fraud alleged is intrinsic and not grounds for the relief  
17 sought.

18 F. PLAINTIFF CAN NOT DEMONSTRATE A PROBABILITY THAT IT  
19 WILL PREVAIL ON ITS CLAIM IN THIS ACTION THAT JUDGE  
20 SWEARINGER SHOULD HAVE BEEN DISQUALIFIED.

21 Plaintiff's theory of this action seems to be that Judge Swearinger was biased against  
22 plaintiff and therefore should have been disqualified under §§ 170.1 and 170.6. (Complaint  
23 ¶ 6.) However, the facts alleged in the complaint do not state grounds for disqualification  
24 under § 170.1. Scientology had no claim against Judge Swearinger under § 170.6 because it  
25 had already used its § 170.6 claim to disqualify Judge Lopez in the Main Action. (Amd.  
26 O'Reilly Decl., Ex. 1, ¶ 6.) In any case, any such disqualification claim may only be  
27 reviewed by a timely petition for writ of mandate -- not by a subsequent independent action.  
28 (§ 170.3(d); People v. Hull (1991) 1 Cal.4th 266, 276, 2 Cal.Rptr.2d 526.) This requirement,  
not met here, prevents the "intolerable windfall" which Scientology seeks here:

"...an 'intolerable windfall' would result if a challenging party were to fail to seek  
immediate review of an unsuccessful challenge, attempt to obtain a favorable  
judgment, and if that effort failed, take a 'second bite at the apple' by reasserting the



1 peremptory challenge on appeal."

2 (Andrisani v. Saugus Colony Limited (1992) 8 Cal.App.4th 517, 526, 10 Cal.Rptr.2d 444.)

3 G. PLAINTIFF CAN NOT DEMONSTRATE A PROBABILITY THAT IT  
4 CAN PROVE KEY FACTS WHICH IT ALLEGES IN ITS COMPLAINT.

5 The declarations presented by defendant in support of this motion indicate that key  
6 "facts" alleged in the complaint did not occur. Andre Anderson, the jury foreperson, who  
7 was present at all proceedings in front of the jury and throughout all the jury deliberations  
8 in the Main Action, states unequivocally that there was no reference to nor comment, by any  
9 juror or any other person in his present, about Judge Swearinger's tires being slashed, his  
10 dog dying, or that he was being followed, harassed or bothered by Scientology. Anderson  
11 Decl, Ex. 3. Antoinette Carrasco Saldana, one of the court bailiffs who was present during  
12 the trial of the Main Action, states unequivocally that during the trial she was not aware of  
13 any unfavorable beliefs or biases held by Judge Swearinger against Scientology, that Judge  
14 Swearinger never mentioned any strange occurrences for which the Judge suspected  
15 Scientology was or might be responsible, or that the Judge's tires were slashed; and that they  
16 have no knowledge of any statements regarding any of these matters to any member of the  
17 jury during the trial. (Saldana Decl, Ex. 5.) After the verdict, Wollersheim's counsel met  
18 with all the jurors (except one alternate), had extensive discussions of the jury deliberations  
19 process, and there was no mention of any of these matters. (Amd. O'Reilly Decl, Ex. 1, ¶  
20 9.)  
21 9.)

22 In contrast, the complaint (at ¶¶ 7, 9, 11-14, 17-19) cites only hearsay, and sometimes  
23 double or triple hearsay, in support of its claims that Judge Swearinger was biased against  
24 Scientology or that he somehow infected the jury.



1 H. THIS ACTION IS BARRED BY COLLATERAL ESTOPPEL BECAUSE  
2 THE CLAIMS MADE BY PLAINTIFF HERE WERE ALREADY RAISED  
3 BY PLAINTIFF AND REJECTED BY THE COURTS IN THE MAIN  
4 ACTION AND IN ANOTHER PROCEEDING.

5 In the course of the Main Action, Scientology launched unsuccessful attacks on Judge  
6 Ronald Swearinger, accusing him of bias and prejudice, particularly after the Judge ruled  
7 against Scientology on an important point. This included filing an action in approximately  
8 March of 1986, Church of Scientology v. Superior Court, USDC-CDCal, CV 86-1362 ER,  
9 against Judge Swearinger and the Los Angeles Superior Court, which was dismissed by Judge  
10 Edward Rafeedie.<sup>12</sup> It also included a formal motion in the Main Action to disqualify Judge  
11 Swearinger in early May 1986, which was denied. (Amd. O'Reilly Decl., Ex. 1, ¶ 8b.)

12 In its appeal of the trial court verdict, Scientology, in addition to its constitutional  
13 claims, raised "a broad spectrum of issues" which the Court of Appeal concluded had no  
14 merit. (Wollersheim v. Church of Scientology (1989) 212 Cal.App.3d 872, 880-881, 260  
15 Cal.Rptr. 331, affirmed on these matters (1992) 3 Cal.App.4th 1290, 6 Cal.Rptr.2d 532  
16 fn.1.)<sup>13</sup>

17  
18 <sup>12</sup>Defendant requests that the Court take judicial notice of the judicial proceedings and  
19 decisions of other courts referred to here and elsewhere in this memorandum, pursuant to  
20 Evidence Code §§ 451(a), 452(a), (c), (d), & (h), & 453. Copies of federal court decisions  
21 cited herein are included with the exhibits filed herewith.

22 <sup>13</sup>As the complaint notes (¶ 4), the U. S. Supreme Court vacated judgment in 1991, the  
23 Court of Appeal again entered judgment in 1992, and the California Supreme Court granted  
24 Scientology's petition for review in July 1992, holding the case pending decision by the U. S.  
25 Supreme Court in TXO Production Corp. v. Alliance Resources Corp. and by the California  
26 Supreme Court in Gourley v. State Farm Mutual Automobile Ins. Co. and MGW, Inc. v.  
27 Fredericks Development Corp. The July 1992 Court of Appeal decision, responding to the  
28 remand from the U. S. Supreme Court, addressed only issues regarding punitive damages and  
reaffirmed its previous decision as to all other matters. Wollersheim v. Church of  
Scientology of California (1992) 3 Cal.App.4th 1290, 6 Cal.Rptr. 2d 532, 534 fn.1. The cases  
the California Supreme Court is holding Wollersheim pending decision in all deal with  
punitive damages issues. See MGW, supra (7/9/92) 10 Cal.Rptr.2d 85, 832 P.2d 586;  
Gourley, supra (1991) 53 Cal.3d 121, 130, 3 Cal.Rptr.2d 666, granted 7/9/92; discussion re  
TXO, supra, in Daily Journal, US Supreme Court Pending Cases (5/27/93) 32-33. Thus, the  
courts have upheld the Wollersheim verdict as to all challenges except for the punitive  
damages issue.



1 Therefore, the claim by Scientology in this action that Judge Swearinger was biased  
2 against Scientology is barred by the doctrine of collateral estoppel, which prevents plaintiff  
3 from re-litigating issues which were or could have been raised. (Clemente v. State (1985) 40  
4 Cal3d 202, 222, 219 Cal.Rptr. 445.)

5 I THIS ACTION IS PART OF PLAINTIFF'S LITIGATION STRATEGY TO  
6 USE THE COURTS TO HARASS ITS OPPONENTS.

7 Scientology embraces the use of litigation to harass its opponents. Its founder, L.  
8 Ron Hubbard, has described this practice as follows:

9 The purpose of the suit is to harass and discourage rather than to win. [¶] The law  
10 can be used very easily to harass, and enough harassment on somebody who is simply  
11 on the thin edge anyway...will generally be sufficient to cause his professional  
12 decease. If possible, of course, ruin him utterly.<sup>14</sup>

13 Vicki Aznaran, who was one of the highest worldwide officials of Scientology, states  
14 in her declaration:

15 Hubbard writings encourage Scientologists to pursue litigation purely for harassment  
16 without regard to the merits of a claim to cause enemies to fold. -- [¶]  
17 It is the stated policy and practice of Scientology to use the legal system to abuse  
18 and harass its enemies. This crude, fundamental directive of Scientology is no secret.  
19 The policy is to do anything and everything possible to harass the opposing litigant  
20 without regard to whether any particular motion or maneuver is appropriate or  
21 warranted by the facts or applicable law. That policy was followed in every legal case  
22 I was involved with or learned about while a member of the Sea Organization. The  
23 management of Scientology consistently expressed and demonstrated a complete  
24 disdain for the court system, viewing it as nothing more than a method to harass

25 <sup>14</sup>From L. Ron Hubbard, The Technical Bulletins of Dianetics and Scientology, Volume  
26 II, p. 157. A copy of the relevant portion of this document is attached as Exhibit A to, and  
27 is authenticated by, Armstrong Decl., Ex. 6, ¶ 5.

28 Top Scientology official Jane Kember, in an internal Scientology document, explained  
that Scientology legal strategy in the U.S. is to use litigation as a financial club:  
The button used in effecting settlement is purely financial. In other words, it is more costly  
to continue the legal action than to settle in some fashion. -- [¶] Therefore, it is imperative  
that legal US Dev-T his opponents and their lawyers with correspondence (a lawyer's letter  
costs approx \$50), phone calls (time costs), interrogatories, depositions and whatever else  
legal can mock up. [¶] One of the bright spots of US legal is that even if you lose you  
don't pay your opponent for his lawyers fees." A copy of the document containing this  
statement is attached as Exhibit B to, and is authenticated by, Armstrong Decl., Ex. 6, ¶ 6.  
The phrase "Dev-T" is a term which Scientology uses to mean to cause someone to do  
unnecessary work. Id.



1 enemies.

2 Aznaran Decl., Ex 7, 4:3-5, 5:3-14; see also Armstrong Decl., Ex 6, ¶¶ 4, 8.

3 Scientology's use of litigation to harass opponents<sup>15</sup> is essentially an application of its  
4 "Fair Game" doctrine.<sup>16</sup> Under this doctrine, enemies of Scientology can be "deprived of  
5 property or injured by any means by any Scientologist" or "tricked, sued or lied to or  
6 destroyed".<sup>17</sup>

7 Defendant Wollersheim has himself been a victim of the Scientology litigation  
8 harassment strategy, of which this action is a part. This includes being subjected to a six-  
9

10  
11 <sup>15</sup>In Church of Scientology of California v. Cazares (5 Cir. 1981) 638 F.2d 1272, 1290,  
12 the court ruled that the civil rights action filed by Scientology against the Mayor of  
13 Clearwater, Florida, "was frivolous, unreasonable and groundless. In Church of Scientology  
14 of California v. McLean (5 Cir. 1980) 615 F.2d 691, 693, Scientology moved to disqualify one  
15 of defendants' attorneys in a slander suit it had filed; the court found Scientology's position  
16 "not only without merit but frivolous." In Church of Scientology of California v. Siegelman  
17 (USDC, SDNY 1979) 475 F.Supp. 950, 951, the court referred to "the litigious Church of  
18 Scientology".

19 <sup>16</sup>The "Fair Game" doctrine is quoted and/or discussed in Church of Scientology of  
20 California v. Armstrong (1991) 232 CalApp.3d 1060, 1067, 283 Cal.Rptr. 917; Wollersheim v.  
21 Church of Scientology of California (1989) 212 CalApp.3d 872, 879-880; and Allard v.  
22 Church of Scientology of California (1976) 58 CalApp.3d 439, 443 fn.1, 447 fn.4, 129  
23 Cal.Rptr. 797; see also Armstrong Decl., Ex 6, ¶¶ 4, 7-8; Aznaran Decl., Ex 7, 2:10-5:14.

24 <sup>17</sup>Judge Paul G. Breckenridge, Jr., made the following observations about Scientology in  
25 Church of Scientology of California v. Armstrong, Los Angeles Superior Court, No. C  
26 420153, which decision was affirmed in Church of Scientology of California v. Armstrong  
27 (1991) 232 CalApp.3d 1060, 1074, 283 Cal.Rptr. 917: "In 1970 a police agency of the  
28 French Government conducted an investigation into Scientology and concluded, 'this sect,  
under the pretext of "freeing humans" is nothing in reality but a vast enterprise to extract  
the maximum amount of money from its adepts by (use of) pseudo-scientific theories, by (use  
of) "auditions" and "stage settings" (lit. to create a theatrical scene) pushed to extremes (a  
machine to detect lies, its own particular phraseology...), to estrange adepts from their  
families and to exercise a kind of blackmail against persons who do not wish to continue  
with this sect.' From the evidence presented to this court in 1984, at the very least, similar  
conclusions can be drawn. In addition to violating and abusing its own members civil rights,  
the organization over the years with its 'Fair Game' doctrine has harassed and abused those  
persons not in the Church whom it perceives as enemies. The organization clearly is  
schizophrenic and paranoid..." Memorandum of Intended Decision, June 20, 1984, p. 8, a  
copy of which is attached as Exhibit C to, and authenticated in ¶ 10 of, Armstrong Decl.,  
Ex 6. On July 20, 1984, the court issued an order deeming its memorandum of intended  
decision as its statement of decision.



1 month trial in the Main Action, countless meritless motions by Scientology, and having to  
2 oppose at least six (ultimately unsuccessful) emergency writ petitions to the Court of Appeal  
3 (Amd. O'Reilly Decl., Ex. 1, ¶ 12.)<sup>18</sup>

4 While the Main Action was pending, Scientology filed a federal RICO suit against  
5 Wollersheim, as well as his attorneys and his two primary expert witnesses in the Main  
6 Action; this case was finally dismissed last year. (Religious Technology Center v.  
7 Wollersheim (9 Cir. 1986) 796 F.2d 1076, cert. den. 479 US 1103; dismissed (1992) 971 F.2d  
8 364.) This was in addition to the federal action filed by Scientology to disqualify Judge  
9 Swearinger (Amd. O'Reilly Decl., Ex. 1, ¶ 8a). In both federal actions and in this action,  
10 Scientology improperly attempted to depose jurors and court personnel from the Main  
11 Action (see fn.10).

12 In addition, Scientology has consciously attempted to deprive Wollersheim of counsel  
13 and key witnesses and evidence in the Main Action, and has subjected him to its Fair Game  
14 policy. (Wollersheim Decl., Ex. 2)

15  
16 J. THIS ACTION IS PART OF PLAINTIFF'S LITIGATION STRATEGY OF  
17 ATTACKING JUDGES WHO RULE AGAINST THEM AS BIASED.

18 Scientology's litigation strategy includes attacking judges who rule against it,  
19 attempting to disqualify them based on claims of bias and prejudice. (Armstrong Decl., Ex.  
20 6, ¶ 9.)<sup>19</sup> Scientology pursued this strategy with a vengeance in the Main Action and

21  
22 <sup>18</sup>In addition, from the beginning of the pre-trial proceedings until the end of the  
23 case, Wollersheim's counsel had to spend approximately \$450,000 on security to protect  
24 Wollersheim, his counsel, and his witnesses from threatened violence from a Scientology mob  
25 which subjected Wollersheim and his counsel to constant harassment and abuse. (Amd.  
O'Reilly Decl., Ex. 1, ¶ 11; Wollersheim Decl., Ex. 2)

26 <sup>19</sup>See also Church of Scientology of California v. Cooper (DC Cal. 1980) 495 F.Supp.  
27 455, 461, where the court ruled that plaintiff's recusal motion was based on false allegations  
28 but nonetheless granted the recusal motion; United States v. Heldt (DC Cir. 1981) 668 F.2d  
1238, 1269-74, cert.den. 102 S.Ct. 1971, a criminal case against top Scientology officials,  
where the Court of Appeals rejected the defendants' arguments that trial Judge Richey  
should have been disqualified and called them "somewhat disingenuous".



1 derivative cases, disqualifying Judge Lopez under § 170.6 and attempting to disqualify Judges  
2 Swearinger and Margolis and the entire Los Angeles County Superior Court for bias in the  
3 Main Action, and filing an unsuccessful separate federal action, Church of Scientology v.  
4 Superior Court, USDC-C.D.Cal., CV 86-1362, which sought to disqualify Judge Swearinger in  
5 the Main Action because of alleged bias, as well as attempting to disqualify the entire U. S.  
6 District Court for the Central District of California because of alleged bias, in the federal  
7 "RICO" action filed against Wollersheim and his counsel and expert witnesses, RTC v.  
8 Wollersheim. (Amd. O'Reilly Decl., Ex 1, ¶¶ 4, 5, 6 & 8.) This new lawsuit is merely the  
9 continuation of the same strategy with another vehicle.

10 K PLAINTIFF HAS UNCLEAN HANDS AND IS NOT ENTITLED TO THE  
11 EQUITABLE RELIEF SOUGHT.

12 This lawsuit seeks equitable relief, which should be denied because plaintiff has  
13 unclean hands.

14 "Under the 'unclean hands' doctrine, a party is barred from relief if he has engaged  
15 in any unconscientious conduct directly related to the transaction or matter before  
16 the court."

17 (DeRosa v. Transamerica Title Insurance Co. (1989) 213 CalApp3d 1390, 1395, 262  
18 Cal.Rptr. 370.)

19 Here, as demonstrated above and in the footnote, plaintiff Scientology has engaged in  
20 abusive and unconscientious conduct directly related to the Main Action, the judgment in  
21 which this lawsuit seeks to set aside. This includes attempting to deprive defendant of his  
22 right to petition the government through use of litigation to harass him, falsification/  
23 concealment of crucial evidence,<sup>20</sup> improper attempts to depose Main Action jurors and  
24

25 <sup>20</sup>Vicki Aznaran, then the top ecclesiastical authority within Scientology, states under  
26 penalty of perjury that after the judge in the Main Action ordered production of  
27 Wollersheim's folders, she "removed contents that might have been damaging to Scientology  
28 or might have supported Wollersheim's claims against Scientology. For example, I removed  
evidence of events involving his family, the anguish this caused him, evidence of  
disconnection from family and evidence of fair game." Aznaran Decl., Ex 7, 6:1-9. Former  
Scientology attorney Joseph Yanny also states that during the Main Action there was



1 court personnel, efforts to deprive defendant of counsel, key witnesses and evidence, and  
2 subjecting him to the "Fair Game" policy. Therefore, equitable relief should be denied  
3 because of plaintiff's unclean hands.

4  
5 CONCLUSION.

6 Defendant's special motion to strike falls squarely within the scope of § 425.16.  
7 Plaintiff's action arises from defendant's exercise of his First Amendment right to petition  
8 the government by filing a lawsuit. Plaintiff cannot meet its burden of establish a probability  
9 that it will prevail in the action, for the reasons set forth above. Defendant's special motion  
10 to strike should therefore be granted and defendant should be awarded his attorneys' fees  
11 and costs.<sup>21</sup>

12  
13 Dated: June 17, 1993

Respectfully submitted,

14 Daniel Leipold  
Hagenbaugh & Murphy

15 Mark Goldowitz

16 Special Counsel for Defendant

17  
18 By Mark Goldowitz

19  
20  
21  
22  
23  
24 \_\_\_\_\_  
25 "wholesale destruction of evidence, theft of documents from private persons, and attempts to  
infiltrate the Court chambers of [Judge] Swearingen." Yanny Decl., Ex. 8, 32:25-27.

26 <sup>21</sup>Section 425.16(c) provides that a prevailing defendant on a special motion to strike  
27 "shall be entitled to his or her attorney's fees and costs." This language is mandatory.  
28 Defendant should therefore be awarded his fees and costs, which will be established by  
separately noticed motion if attempts at informal resolution of this matter do not succeed.



PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 701 S. Parker, Ste. 8200, Orange, California, 92668.

On June 21, 1993 I served the foregoing document described as: NOTICE OF RULING ON DEFENDANT'S EX PARTE APPLICATION FOR RELIEF FROM MISTAKE, ORDER RE EX PARTE APPLICATION FOR RELIEF FROM MISTAKE, and AMENDED MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT OF DEFENDANT'S SPECIAL MOTION TO STRIKE on the parties in this action

by placing the true copies thereof enclosed in sealed envelopes addressed as stated in the attached mailing list:

by placing  the original  a true copy thereof enclosed in sealed envelopes addressed as follows:

Laurie Bartilson  
BOWLES & MOXON  
6255 Sunset Blvd. Ste. 2000  
Hollywood, California, 90028  
Also sent via Facsimile

BY MAIL

I deposited such envelope in the mail at California. The envelope was mailed with postage thereon fully prepaid.

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Orange, California.

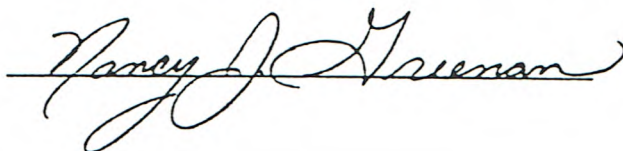
PERSONAL SERVICE - I delivered such envelope by hand to the offices of the addressee.

Executed on at California.

(State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Nancy J. Greenan









DECLARATION OF GERALD ARMSTRONG

1  
2 I, Gerald Armstrong, having personal knowledge of the  
3 following, hereby declare and state:

4 1. I became involved with Scientology as a customer in  
5 1969 in Vancouver, British Columbia. I worked on staff there  
6 in 1970 and in February 1971 joined the Sea Organization (SO or  
7 Sea Org) in Los Angeles. I was flown to Spain and joined the  
8 Sea Org's flag ship, "Apollo," in Morocco. L. Ron Hubbard, the  
9 Sea Org's "Commodore," was on board and operated Scientology  
10 internationally through the "crew" which numbered, during my  
11 stay on board of four and a half years, around four hundred.  
12 All my staff positions on board involved personal contact with  
13 L. Ron Hubbard, Mary Sue Hubbard, administrative organization  
14 staff and people in the ports and countries the "Apollo"  
15 visited, and included "Ship's Representative" (legal  
16 representative), "Port Captain" (public relations officer), and  
17 "Information Officer" (intelligence officer).

18 2. In the fall of 1975 after the ship operation moved  
19 ashore in Florida I was posted in the Guardian's Office (GO)  
20 Intelligence Bureau connected to Hubbard's Personal Office.  
21 From December 1975 through June 1976 I held the post of Deputy  
22 LRH External Communications Aide, a relay terminal for  
23 Hubbard's written and telex traffic to and from Scientology  
24 organizations. From July 1976 to December 1977 I was assigned,  
25 on Hubbard's order, to the "Rehabilitation Project Force"  
26 (RPF), the SO prison system. In 1978 I worked in Hubbard's  
27 cinematography crew in La Quinta, California, making movies  
28 under his direction until the fall of that year when he again



1 assigned me to the RPF, this time for eight months first in La  
2 Quinta, then at a newly purchased base in Gilman Hot Springs  
3 near Hemet, California. When I got out of the RPF in the  
4 Spring of 1979 and until the beginning of 1980, I worked in  
5 Hubbard's "Household Unit" (HU) at Gilman, the SO unit which  
6 took care of Hubbard's house, personal effects, transport,  
7 meals and so forth, as the "Purchaser," "Renovations In-Charge"  
8 and "Deputy Commanding Officer HU."

9 3. Throughout 1980 and until I left the organization in  
10 December 1981 I held the organization posts in Hubbard's  
11 "Personal Public Relations Bureau" of "LRH Archivist" and "LRH  
12 Personal Researcher." I assembled in Los Angeles an archive of  
13 Hubbard's writings and other materials relating to his history  
14 to be used as, inter alia, the basis for a biography to be  
15 written about the man. I also worked in Los Angeles for the  
16 first few months of 1980 on Mission Corporate Category Sortout  
17 (MCCS), which had the purpose of restructuring the Scientology  
18 enterprise so that Hubbard could continue to control it without  
19 being liable for its actions. Beginning in the fall of 1980  
20 and continuing until my departure, I provided the biographical  
21 writings and other materials, as I collected and organized  
22 them, to Omar Garrison, who had contracted with the  
23 organization to write the Hubbard biography. I interviewed  
24 many people who had known Mr. Hubbard at periods throughout his  
25 life, including almost all of his known living relatives. I  
26 traveled several thousand miles collecting biographical  
27 information and conducting a genealogy search, and arranged the  
28 purchase of a number of collections of Hubbard-related



1 documents and other materials from individual collectors.

2 4. As a result of the activities described above, I have  
3 become very familiar with Scientology policies, practices, and  
4 policy documents. I also know that the Church of Scientology  
5 of California, as part of the Scientology organization, has  
6 followed and implemented these policies and practices,  
7 including those described below.

8 5. Attached to this declaration as Exhibit A is a true  
9 copy of a portion of volume II of The Technical Bulletins of  
10 Dianetics and Scientology, by L. Ron Hubbard, the founder of  
11 Scientology. It includes (at page 157) the following  
12 description of Scientology's practice of using litigation to  
13 harass its opponents:

14 The purpose of the suit is to harass and discourage rather  
15 than to win. [¶] The law can be used very easily to  
16 harass, and enough harassment on somebody who is simply on  
the thin edge anyway...will generally be sufficient to  
cause his professional decease. If possible, of course,  
ruin him utterly.

17 6. Attached to this declaration as Exhibit B is a true  
18 copy of an internal Scientology document, Guardian Order 166,  
19 dated October 7, 1971. This document was written by the then  
20 Guardian, Jane Kember, at that time the most senior Scientology  
21 official under L. Ron Hubbard and his wife, Mary Sue Hubbard.  
22 GO 166 was included in the Intelligence Course Pack which I  
23 studied while I was the Intelligence Officer on Scientology's  
24 ship the "Apollo" in the 1970's. This document includes the  
25 following explanation that Scientology legal strategy in the  
26 U.S. is to use litigation as a financial club:

27 The button used in effecting settlement is purely  
28 financial. In other words, it is more costly to continue  
the legal action than to settle in some fashion. ... [¶]



1 Therefore, it is imperative that legal US Dev-T his  
2 opponents and their lawyers with correspondence (a  
3 lawyer's letter costs approx \$50), phone calls (time  
4 costs), interrogatories, depositions and whatever else  
legal can mock up. [¶] One of the bright spots of US  
legal is that even if you lose you don't pay your opponent  
for his lawyers fees.

5 The phrase "Dev-T" is a term which Scientology uses to mean to  
6 cause someone to do unnecessary work.

7 7. Since leaving the Scientology organization, I have  
8 monitored the conduct of the organization, including the Church  
9 of Scientology of California. I am familiar with, and have  
10 been a target and victim of the "fair game" doctrine, which was  
11 described by the California Court of Appeal decisions in Church  
12 of Scientology v. Armstrong, Allard v. Church of Scientology,  
13 and Wollersheim v. Church of Scientology. Although Scientology  
14 claims that the "fair game" doctrine has been abandoned, I know  
15 from personal experience that this is not true, at least as  
16 recently as this year. For instance, Scientology attempted in  
17 the first few months of 1993 to have me jailed for contempt of  
18 court based on the false declaration of a Scientologist lawyer,  
19 Laurie Bartilson, for acts which Scientology itself set up.  
20 This is only the most recent of over a decade of "dirty tricks"  
21 which Scientology personnel have directed at me.

22 8. From my personal experience, I know that Scientology  
23 does use the litigation approach described by Hubbard and  
24 Kember in the quotes above. In various cases, Scientology has  
25 subjected me to over 35 days of depositions. As a paralegal  
26 working on cases involving Scientology for 16 months for Boston  
27 attorney Michael Flynn and for almost two years for California  
28 attorney Ford Greene (to the present), I have observed




1 Scientology's litigation practices. Scientology regularly  
2 attempts to bludgeon the opposition into submission with a  
3 blizzard of meritless paper, motions, depositions, appeals,  
4 writs, Bar complaints, criminal complaints, perjured testimony,  
5 and other improper and abusive tactics.

6 9. I am also aware that Scientology uses an attack  
7 strategy against judges who rule against it, which includes  
8 claims of bias and prejudice and frequently personal attacks.  
9 For instance, in my case, Church of Scientology of California  
10 v. Armstrong, L.A. Superior Court No. C 420153, Scientology  
11 twice tried unsuccessfully to disqualify Judge Breckenridge  
12 from the case because of alleged bias, and levied personal  
13 attacks on him, accusing him publicly of Nazi affiliation.  
14 Similarly, in Aznaran v. Church of Scientology of California,  
15 U.S.D.C. C.D.Cal # CV-88-1786-JMI, Scientology unsuccessfully  
16 attempted to recuse Judge James Ideman because of alleged bias.

17 10. Attached to this declaration as Exhibit C is a true  
18 copy of the June 20, 1984 decision by Judge Paul G.  
19 Breckenridge, Jr., in the case of Church of Scientology of  
20 California v. Gerald Armstrong, L.A. Superior Court No. C  
21 420153, which was affirmed on appeal at 232 Cal.App.3d. 1060,  
22 283 Cal.Rptr. 917 (1991).

23 I declare, under penalty of perjury, that the foregoing is  
24 true and correct.

25 Executed this 4th day of June, 1993, at Oakland,  
26 California.

27   
28 \_\_\_\_\_  
Gerald Armstrong







FORD GREENE  
LAWYER

HUB LAW OFFICES  
711 SIR FRANCIS DRAKE BOULEVARD  
SAN ANSELMO, CALIFORNIA 94960-1949  
(415) 258-0360

LICENSE No 107501  
FACSIMILE (415) 456-5318

July 23, 1993

Laurie J. Bartilson  
BOWLES & MOXON  
6255 Sunset Boulevard, Suite 2000  
Los Angeles, California 90028

By Telecopier  
213-953-3351

RE: *Church of Scientology International v. Armstrong*  
Los Angeles Superior Court  
Case No. BC 052 395

---

Dear Ms. Bartilson:

In light of the fact that the injunction you claim my client to have violated does not prohibit Mr. Armstrong from providing declarations to private litigant defendants, and in light of the fact that your organization sued Mr. Wollersheim and Mr. Armstrong's perceived injunctional transgression is to have executed a declaration in support of defendant Wollersheim's motion to dismiss your suppressive litigation against him, any OSC that you seek on these grounds is without merit and frivolous.

We will oppose your meritless OSC and seek sanctions for having to again deal with your spurious efforts at using litigation as a tool of repression.

Sincerely,



FORD GREENE

:acg

cc: Paul Morantz (By Telecopier)  
Andrew H. Wilson (By Telecopier)







FORD GREENE  
LAWYER

HUB LAW OFFICES  
711 SIR FRANCIS DRAKE BOULEVARD  
SAN ANSELMO, CALIFORNIA 94960-1949  
(415) 258-0360

LICENSE No. 107601  
FACSIMILE (415) 456-5318

July 23, 1993  
1207 PDT

Laurie J. Bartilson, Esquire  
Bowles & Moxon  
6255 Sunset Boulevard  
Suite 2000  
Los Angeles, CA 90028

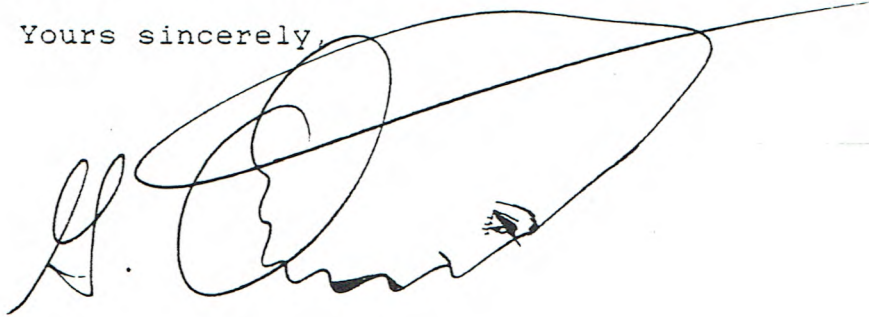
BY FAX (213)953-3351

Dear Ms. Bartilson:

I have been directed by Mr. Greene to ask you to fax to this office immediately all your papers relating to your attempt to have me held in contempt for providing a declaration to Lawrence Wollersheim.

Thank you for your attention to this matter.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Gerald Armstrong", written over a large, loopy flourish that extends across the right side of the page.

Gerald Armstrong  
for Ford Greene, Esquire







BOWLES & MOXON  
ATTORNEYS AT LAW  
6255 SUNSET BOULEVARD  
SUITE 2000  
HOLLYWOOD, CALIFORNIA 90028

TIMOTHY BOWLES \*  
KENDRICK L. MOXON †  
LAURIE J. BARTILSON ‡  
HELENA K. KOBRIN ‡

\* ALSO ADMITTED IN OREGON  
† ALSO ADMITTED IN THE DISTRICT OF COLUMBIA  
‡ ALSO ADMITTED IN MASSACHUSETTS  
‡ ALSO ADMITTED IN FLORIDA  
§ ALSO ADMITTED IN ILLINOIS  
¶ ALSO ADMITTED IN OKLAHOMA

(213) 953-3360  
TELECOPIER (213) 953-3351

PETER M. JACOBS  
RANDALL A. SPENCER §  
ROBERT A. WIENER ¶  
LESLIE T.W. SOASH  
AVA MARIE SANDLIN

OF COUNSEL  
JEANNE M. GAVIGAN  
MARCELLO M. DI MAURO  
KAREN I. BROWN  
KAREN D. HOLLY

July 23, 1993

BY TELEFAX AND U.S. MAIL

RECEIVED

JUL 23 1993

HUB LAW OFFICES

Ford Greene  
711 Sir Francis Drake Blvd.  
San Anselmo, California 94960-1949

Re: Church of Scientology International v. Gerald Armstrong

Dear Mr. Greene:

I am in receipt of the attached letter from your client, Gerald Armstrong.

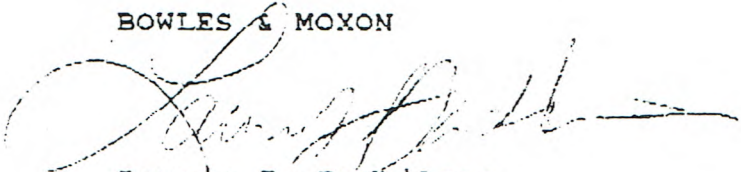
In light of the unfounded accusations which you have leveled at me in the past, I am sure you can appreciate that I am unwilling to engage in any direct communication with your client, absent your written authorization.

As soon as the order to show cause papers are completed, I will fax them to your office, as has always been our custom. They are as yet incomplete.

Please advise whether or not you intend to oppose the application.

Sincerely,

BOWLES & MOXON



Laurie J. Bartilson

LJB:mfh  
Enc.

cc: Paul Morantz BY TELEFAX AND U.S. MAIL  
cc: Andrew H. Wilson BY TELEFAX AND U.S. MAIL